S. HRG. 101-472

DRUG OFFENDER'S DRIVING PRIVILEGES SUSPENSION ACT OF 1989

HEARING

BEFORE THE

SUBCOMMITTEE ON WATER RESOURCES, TRANSPORTATION, AND INFRASTRUCTURE

OF THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

ON

S. 1804

A BILL TO AMEND TITLE 23, UNITED STATES CODE, TO REDUCE THE AMOUNT OF FEDERAL HIGHWAY FUNDS ALLOCATED TO ANY STATE THAT DOES NOT PROVIDE FOR THE REVOCATION OR SUSPENSION OF THE DRIVER'S LICENSE OF ANY INDIVIDUAL CONVICTED OF A DRUG OFFENSE

NOVEMBER 15, 1989

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DRUG OFFENDER'S DRIVING PRIVILEGES SUSPENSION ACT OF 1989

WEDNESDAY, NOVEMBER 15, 1989

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
SUBCOMMITTEE ON WATER RESOURCES, TRANSPORTATION, AND INFRASTRUCTURE,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:07 p.m., in room 406, Dirksen Senate Office Building, Hon. Daniel P. Moynihan (chairman of the subcommittee) presiding.

Present: Senators Moynihan, Lautenberg, Reid, Warner, and Symms.

OPENING STATEMENT OF HON. DANIEL PATRICK MOYNIHAN, U.S. SENATOR FROM THE STATE OF NEW YORK

Senator MOYNIHAN. We will open this regular session of the Subcommittee on Water Resources, Transportation, and Infrastructure of the Committee on Environment and Public Works.

We are here today to hear testimony on a bill from a very dear friend and colleague from the House and other distinguished persons. The bill is S. 1804, introduced by my brother and dear friend, Senator Lautenberg, with Mr. Warner and Mr. Stevens, as well.

This is a bill that would withhold a portion of Federal highway funds from States that do not enact legislation that provides for the suspension of a driver's license of anyone convicted of drug use—a six-month suspension in this case, but the principle is the suspension—and also a delay in the reinstatement of a driver's license if the individual has already been suspended. Basically, this would be done because of the loss of Federal highway revenues from the trust fund. It would be 5 percent in the case of this particular bill.

A comparable measure has been introduced in the House by the distinguished representative from New York from whom we will be hearing very shortly, Mr. Solomon.

But first I would like to ask if Senator Lautenberg would like to make a general statement introducing the subject and the hearing.

OPENING STATEMENT OF HON. FRANK R. LAUTENBERG, U.S. SENATOR FROM THE STATE OF NEW JERSEY

Senator LAUTENBERG. Thank you very much, Mr. Chairman, for holding this hearing at my request. You and I have worked on many matters of safety and environment together and, once again,

this is an opportunity to discuss an idea whose time, I think, has come. It has the merit of experience and, having been tried in my own State of New Jersey, seems to produce the desired effect.

We want to make sure that we hear all opinions and views, Mr. Chairman, and I appreciate your cooperation and the help of your staff.

We are here to discuss the Drug Offender's Driving Privileges Suspension Act of 1989. S. 1804 would encourage States to enact legislation to suspend the driver's licenses of convicted drug offenders. It is designed to help attack the serious drug problem that we face in this country and to make our roads and highways safer in the process.

Mr. Chairman, as you have argued with great eloquence, demand reduction is critical in combating the drug problem. We need to support drug education and prevention programs that discourage people from using illegal drugs in the first place, and we also must have adequate laws on the books to deter the use of illegal drugs.

Mr. Chairman, traditional forms of punishment such as imprisonment and monetary fines are not adequately deterring illegal drug behavior, particularly of casual drug use. The fact is that for most casual users the prospect of imprisonment is an empty threat. Insufficient prison space and the feeling among some that imprisonment may be too harsh a sanction means that few casual users will ever see the inside of a jail cell.

Nor are casual users being adequately deterred by fines—particularly the many users who lack sufficient resources to pay substantial penalties.

We need alternative sanctions that are realistic, certain, and cost effective. One is to take away the driver's license of those who are convicted of a drug offense.

Mr. Chairman, driving is a privilege that has become a way of life for most of our citizens, not a right. And if a citizen chooses to engage in illegal drug behavior, he or she should lose that privilege. The threat of losing driving privileges will give many prospective drug users a strong reason to think twice—particularly young people.

As millions of parents know, driving is very important for the younger set, and it is not surprising that 57 percent of teenagers in a recent poll said that suspending driver's licenses would be a "very effective" deterrent. In fact, the experience of my State of New Jersey bears that out.

New Jersey enacted a license suspension law in 1987—we will soon be hearing from our Attorney General—and last year suspended the licenses of about 9,600 drug offenders. From all indications, the threat of losing one's license is really getting younger people's attention.

One of the questions that I'm going to ask the Attorney General when he is at the table is whether taking a driver's license away from someone incarcerated for a couple of years does the trick. I assume that we're not talking about those who are in jail and taking away their driver's license because I don't know that they care a lot. But we'll have a chance to examine this.

But the threat of a license suspension is more than a deterrent; it is an excuse. It is an excuse for young teenagers to say no to

drugs, an excuse to say, "No thanks, I'd rather preserve my driving privilege."

Suspending the licenses of drug offenders can make a real difference in our Nation's war on drugs, but there is another important purpose behind the legislation: to improve highway safety and to save lives.

The problem of drunk driving is well known. We have fought back by encouraging States to raise the drinking age to 21 and by passing a law just last year to suspend the license of those caught under the influence of alcohol. But more needs to be done about a related problem, and that is the problem of drugged driving.

We're going to hear today about findings that a large number of drivers involved in accidents now show traces of illegal drugs. There is strong reason to believe that the problem of driving under the influence of drugs is costing many lives on our Nation's highways. Many of those lives can be saved if we keep the drugged drivers off the road.

Mr. Chairman, the concept of suspending the driver's licenses of drug offenders has already won widespread support. President Bush endorsed the idea in his national drug control strategy. A report by law enforcement groups, including the National Association of Attorneys General and the National District Attorneys Association, also recommended that States enact such laws.

Moreover, a recent Gallup poll found that 78 percent of both adults and teenagers are in favor of taking away the driver's licenses of drug users. Mr. Chairman, this bill would give States a reasonable period to enact such laws and would withhold a modest portion of highway funds for those that refuse.

I recognize that withholding highway funds from States is a tough sanction, but it has been used before and has proven effective, particularly in encouraging States to enact the 21-year-old drinking age law.

When we offer incentives, very often we find out that the inducement isn't sufficient to get States to move on these things, and we hope—our mission is not punishment. Our mission is to get casual drug use away from young people to save lives and to protect those travelling on the highways.

I thank you very much, Mr. Chairman, for your willingness to hold this hearing.

Senator MOYNIHAN. We thank you, sir. I'm sure we'll be hearing from one of our witnesses, at least—I think Chief Robbins from Lindenwold is here—on the subject of the driver's license as being an element in the acquisition of drugs. I think it to be the view of our police that a very considerable amount of the drug trade involves persons driving into the city for that purpose. If that option is lost, that activity may decline.

I'm going to follow our practice in terms of who has arrived first and start with the Senator from Nevada. We welcome you, sir.

OPENING STATEMENT OF HON. HARRY REID, U.S. SENATOR FROM THE STATE OF NEVADA

Senator REID. Thank you very much, Mr. Chairman.

I support this legislation, but, unfortunately, I'm not going to be able to stay for all of the witnesses.

I would urge this subcommittee to mark up this legislation as early as possible. I worked closely with Senator Lautenberg in the 100th Congress on legislation to address drunk driving. His bill, S. 2367, and my bill, S. 2523, offer Federal incentives and sanctions to States that enact tough laws to reduce drunk driving. My legislation imposed a sanction withholding 5 percent of certain highway funds for States that did not establish several specific laws to punish drunk driving. The bill before us today takes a similar approach toward the problem of drug abuse.

I'm a strong advocate of States' rights in most circumstances, but the war on drugs demands an extraordinary response. We, in Congress, must take strong steps to not only eradicate the drug trade but to prevent drug use and thereby choke off demand for these pernicious concoctions.

Nothing will convince States to enact the provisions of Senator Lautenberg's legislation quicker than the threat of a loss of highway funds. As one witness has indicated in their written testimony, a 10 percent reduction in the highway funds is not a modest reduction.

This legislation will save lives in three ways: one, it will make our highways safer; two, it will dissuade many potential drug users from ever using a controlled substance, and; third, it will reduce the flow of money to drug lords and make their deadly trade more difficult to sustain.

Five years ago a Las Vegas newspaper eloquently editorialized on the flaws in the State rights argument when it applied to the 21-year-old drinking age legislation. They wrote,

> It appears that the withholding measure is the only way the States will listen to reason. And the statistics—cold, brutal, and deadly—are there. While States' rights is an admirable stand, so is the saving of lives, and if Congress vows to cut highway funds, States are sure to fall in line.

This sentiment is even more appropriate now in the face of our Nation's drug crisis.

Thank you, Mr. Chairman.

Senator MOYNIHAN. I thank you, Senator Reid.

I'd like to note for the record that we will proceed to mark up this legislation. It will be reported out of this committee. You may be sure of that. It will be on the calendar of the Senate. We may be just a little bit short of time in this session, but another session resumes.

Senator REID. I look forward to that. Thank you very much, Mr. Chairman.

Senator MOYNIHAN. Senator Warner, I'm very glad you could be here.

OPENING STATEMENT OF HON. JOHN W. WARNER, U.S. SENATOR FROM THE COMMONWEALTH OF VIRGINIA

Senator WARNER. Thank you, Mr. Chairman.

I recognize the burden on this committee and on the Senate, as a whole, at these closing days, but I appreciate your cooperation in bringing this matter up.

It has been my privilege to work with the principal sponsor of this legislation, our good friend from New Jersey, and he deserves a major portion of the credit for initiating this legislation.

I had begun my own work in a similar vein when I learned of his work. He was ahead of me, and I was glad to come in and join him as one of his principal cosponsors.

I would like to put my statement in the record so we can proceed, but I would like to first make two observations.

Senator MOYNIHAN. Please do.

Senator WARNER. I'm on the floor with Senator Nunn right now with the Armed Services Authorization Bill. There is close to half a billion dollars in that bill for the drug program. That half billion, together with roughly $9.5 billion elsewhere in various bills, is close to $10 billion that we, in this legislative cycle, are putting towards the war on drugs.

Now, you've got to ask yourself: if you're expending that amount—and properly so—of taxpayers' money, is there not a responsibility on us to provide the law enforcement agencies and the States with as much authority as they can to go after the users and others who are subject to this statute? I think there is a corollary between the investment of $10 billion and the need to put the law on the books.

We are pleased to get some expert advice today. I've consulted with a number of the police officials in my State. Generally they are supportive. They do point out, however, that they have had some bad experiences with the drunk driving legislation and other legislation. They say people simply ignore it. Take away the permit and they continue to drive. Well, let's hope that those cases will be reduced.

The bottom line is that we have to impress upon the younger generation the seriousness with which our government is approaching this problem and the magnitude of the investment of the dollars. Those of us who have wonderful children, as I have, know the importance of a driving permit to a young person. I think they'd trade in practically anything to keep their permit.

Senator MOYNIHAN. Including their old man.

Senator WARNER. I was about to say that. Including their old man. That's for sure. And I'm not excepted from that general rule.

On that note, I conclude my comments. Thank you.

[Senator Warner's statement follows:]

OPENING STATEMENT OF HON. JOHN W. WARNER, U.S. SENATOR FROM THE COMMONWEALTH OF VIRGINIA

Mr. Chairman, I want to commend you for holding this hearing today on S. 1804, the "Drug Offender's Driving Privileges Suspension Act of 1989". In light of the other pressing business before the Committee, this hearing is an indication of the importance attached to drug abuse.

I would also like to commend my colleague and cosponsor, Senator Lautenberg, for his leadership on this issue.

Mr. Chairman, the biggest danger facing America today is the scourge of drugs. It erodes the very foundation of our Nation and every effort must be made to eliminate this scourge.

Congress, working with the President, has been engaged in an effort to bring ever more resources to bear on this problem. Since last fall, the Senate has considered legislation providing billions of dollars to wage this war—money for interdiction, law enforcement, treatment and education.

In the past, too much of our effort has focused on the supply of illegal drugs. But no matter how much money and effort is put into interdiction, America's drug problem will never be solved until we put an end to the insatiable appetite for illegal narcotics.

Reducing demand is key to combating the drug problem. Congress must discourage people from using drugs through education and effective deterrents. One such deterrent is to take away the driving privileges of drug abusers.

This bill brings home to the casual user the fact that they are part of the drug problem and that there is a cost to drug abuse. It is intended to hit drug users where it hurts; young people, for whom driving privileges are very important, will think twice before using drugs if their driving privileges are in jeopardy. This bill sends a strong message—"you abuse, you lose."

I represent Virginia, a State with a long tradition of respect for states rights. I am usually reluctant to support legislation requiring States to pass legislation under the threat of withholding Federal funds, especially funds contributed by the highway user. As a member of this Subcommittee, I am acutely aware of the great transportation needs of the States and their need for this money.

However, I believe that there are circumstances where the need is so pressing and the interest so national in nature that sanctions are justified. I believe this is one such case.

Drug use and abuse is a national problem. Federal, as well as state and local resources, are being mobilized to address this problem. There is particular Federal interest—controlled substances are primarily regulated at the Federal level.

This legislation would use the highway trust fund dollars as a lever to force the states to comply with the national objective of reducing the demand for illegal drugs. It is a heavy stick and it is intended to be. The circumstances justify strong measures.

I want to welcome the witnesses here today. I look forward to hearing your testimony.

Thank you.

Senator MOYNIHAN. Thank you, sir.

The distinguished Senator from Idaho is here and we look forward to hearing from him.

OPENING STATEMENT OF HON. STEVE SYMMS, U.S. SENATOR FROM THE STATE OF IDAHO

Senator SYMMS. Thank you very much, Mr. Chairman and colleagues.

I probably am one person here that has a little bit of hesitancy. I am in total support of the goal of the authors of this bill, but I have a little trouble with the issue of using sanctions to try to dictate to States what I think are State matters.

This legislation will require States to enact laws to revoke or suspend the driver's license of individuals convicted of criminal drug offenses. As I understand it, States that fail to enact the conforming statutes would be subject to the loss of 5 to 10 percent of their Federal aid highway funds.

I appreciate the justifiable concern about highway safety and the deterrents of illegal drug activity, which are the goals of this bill—and I compliment the authors for those goals. Last year more than 47,000 people died in accidents on the Nation's highways, and thousands more were seriously injured. I think we should do what is reasonable to bring down that number and I do support highway safety. But I'd like to do it without infringing upon the traditional prerogatives of State and local governments and without using the Highway Trust Fund to force the hand of State legislators to do what I would call a form of legalized blackmail.

This bill is another attempt, in my opinion, to achieve non-transportation goals by holding the States' highway funds hostage for

noncompliance. Many States, including my own of Idaho, already have laws in effect which may result in the suspension or the revocation of an individual's driver's license if a person is convicted of driving under the influence of drugs or alcohol. So I believe my State already is in compliance, but the bill before us is clearly an intrusion in an area that States should have and should continue to address themselves.

How can anyone oppose this legislation? I'm sure that's the question. This is just another means for Congress to fight the drug war. I'm sure that's what people are going to say. And I don't think we could find anyone in this room or a citizen on the street who would be opposed to keeping illegal drug users off our highways.

But is this legislative policy that Congress ought to be considering? This bill would stick the Federal Government's nose into the decision-making process of granting or suspending State driver's licenses—a decision that I think my colleagues will agree that State legislators have been able to deter very well in the past and are going to consider that they can do it very well in the future.

In this Congress there are several proposals, including this one, that threaten the loss of highway funds if States don't follow the straight and narrow course set in Washington. Unfortunately, the causes promoted in these bills have very little to do with the building and the maintaining of the Nation's highway system, which is the stated purpose for which the taxes are collected from motorists in the first place. No matter how worthy the goal—highway safety and fight against drug abuse are worthy—we cannot continue to extend the reach of the Federal Government if we truly wish to reduce the Federal budget deficit. Let us leave some discretion and power in the hands of our State legislators.

Mr Chairman, I would ask unanimous consent to include in the record a letter I received from Kermit Kiebert, the director of the Idaho Department of Transportation, following my remarks.

The gist of the letter from our director of transportation in Idaho—I'll just quote the last paragraph of the letter.

> The Idaho Department of Transportation urges you to strongly oppose S. 1804 because of its potential severe financial effects on Idaho's highway program in its intent to use the withholding of highway funds to achieve non-transportation-related goals.

He has sent copies of that letter to the rest of the delegation.

Senator MOYNIHAN. I'm happy to do it, and it is so ordered. Thank you, Senator Symms.

[The letter referred to follows:]

TRANSPORTATION DEPARTMENT
P.O. BOX 7129 • BOISE, ID • 83707-1129 • 208/334-8000

November 7, 1989

The Honorable Steven D. Symms
U.S. Senate
509 Senate Hart Building
Washington, DC 20510

Attn: Taylor Bowlden

Subject: Senate Bill 1804, "Drug Offender's Driving Privileges Suspension Act of 1989"

Dear Senator Symms:

The Idaho Transportation Department has reviewed S.1804 which would require states to enact laws to revoke or suspend the drivers license of individuals convicted of criminal drug offenses, with non-compliance by any state resulting in the withholding of Federal-aid highway funds.

Senate Bill 1804 defines those criminal drug offenses for which the states would have to revoke or suspend drivers licenses as follows:

> "(2) The term 'drug offense' means any criminal offense which proscribes the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance the possession of which is prohibited under the Controlled Substances Act."

This definition of a "criminal" offense is so broad that it would undoubtedly cause a conflict in the level of enforcement from state-to-state. For example, possession of a small amount of a controlled substance might be a non-criminal misdemeanor in one state and a criminal misdemeanor or felony in a neighboring state. In the latter case, the offender's drivers license would be revoked; in the other it would not. This inequity could result in

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STATE OF IDAHO — TRANSPORTATION DEPARTMENT

a convicted offender seeking to obtain a new license in another state where the offense is not criminal. (Even among the thirty-five states, including Idaho, which are members of the Drivers License Compact, most states will not refuse to issue a new license if the offense for which another state license was revoked is not grounds for revocation under their laws.)

A second major problem with this legislation is that it would make the respective state transportation agencies subject to penalties (the loss of Federal-aid funds) for non-compliance with required changes in the criminal code of their states. Since the state transportation agencies have no jurisdiction or responsibility for criminal code transportation formulation or enforcement, they must "stand helpless" before the requirements of S.1804, unable to effect the state code changes necessary to avoid the highway funding sanctions.

If this legislation is enacted, and Idaho was unable to comply, the state would be penalized with a five-percent withholding from our apportioned Interstate, Interstate Rehabilitation, Primary, Secondary and Urban Federal-aid funds in Fiscal Year 1991 and a ten-percent withholding each following fiscal year. Based upon Idaho's FY-1990 apportionments, this would amount to a $3,239,320 reduction in our FY-1991 funds and another $6,478,640 per year thereafter. These reductions would have a severe effect on Idaho's highway program, particularly when coupled with the current "obligational limitation" set on highway funds and further potential reductions under the Graham-Hollings-Rudman deficit-reduction act.

Senate Bill 1804 is yet another attempt to achieve non-transportation goals by holding a state's highway funds hostage for non-compliance. The State of Idaho already has laws in effect which may result in the suspension or revocation of an individual's drivers license if he/she is convicted of driving under the influence of alcohol or drugs (an instance which is clearly related to highway safety). Idaho also has laws which impose criminal penalties for the possession, distribution, manufacture, cultivation, sale, etc., of substances prohibited under the Controlled Substances Act. This proposed legislation is an unnecessary intrusion into an area which has already been addressed by the Legislature and people of Idaho.

CONTINUED

STATE OF IDAHO — TRANSPORTATION DEPARTMENT

The Idaho Transportation Department urges you to strongly oppose S.1804 because of its potentially severe financial effects on Idaho's highway program and its attempt to use the withholding of highway funds to achieve non-transportation related goals.

Sincerely,

Kermit V. Kiebert

KERMIT V. KIEBERT
Director

KVK:TLG:ssk/tsldrugoffen

cc: Representative Stallings
Representative Craig

Senator SYMMS. Now that the skunk at the lawn party has spoken, Mr. Chairman, you go ahead.

Senator MOYNIHAN. We will have no such words spoken by a genuine defender of the Republican principles of States' rights excepting where Federal grants are involved.

We are now honored to have, on the first occasion that I am aware, the distinguished Representative Gerald Solomon, who has been patiently listening to us. Now we look forward to hearing from him.

While Representative Solomon is coming to the table, I would like to acknowledge and place in the record a statement from Senator Lieberman who was unable to attend today's hearing.

[Senator Lieberman's statement follows:]

STATEMENT OF HON. JOSEPH I. LIEBERMAN, U.S. SENATOR FROM THE STATE OF CONNECTICUT

Mr. Chairman, today this committee considers a bill that would encourage states to take an important step toward improving highway safety and discouraging casual drug usage. Senator Lautenberg's bill, S. 1804, would require States—in order to receive their full share of Federal highway funds—to enact and enforce a law mandating the revocation or suspension of the driver's license of anyone convicted of a drug offense.

I recognize that proposals such as this one raise concerns about the proliferation of laws making Federal highway funds contingent upon various actions being taken by the States. But we are at a time when new efforts to discourage drug use, other than incarceration, are desperately needed.

State and local enforcement is a critical part of the war on drugs. But our criminal justice system can only be stretched so far. In many States, including my own State of Connecticut, successful law enforcement has resulted in prison overcrowding that has crippled the criminal justice system. The State's prisons are, quite literally, overflowing. Convicted drug dealers are serving 10 percent of their sentences—often as little as two or three months in prison—hardly an adequate deterrent to the lucrative lure of drugs. First-time users serve no time at all. Sometimes, the police must stop arresting people because there is no place to put them.

Both the Federal and State governments are experimenting with alternatives to traditional types of incarceration, but clearly other punishments and disincentives to drugs must be explored. We must consider taking away some of society's privileges as a means of discouraging and punishing the use of drugs. That is what the right to drive is—a privilege, that is often taken for granted, but in fact is conveyed in exchange for the driver's abidance by the rules of the road and the rules of society.

I believe taking away someone's driver's license would have a deterrent effect—if not for the hard-core addict, then certainly for the recreational drug user whose money supports the ongoing distribution of illegal drugs. At a hearing on crime and drugs in Connecticut last summer, local police testified that they have begun to target the steady stream of suburban kids coming into the city to buy drugs. Some of their more successful efforts included seizing the arrested drug buyers' cars, or their fathers' cars as is often the case, and publishing their names and addresses in their local newspapers. Taking their drivers' licenses away for a substantial period of time would add a potent weapon to the State's deterrence arsenal. It would also take a lot of dangerous drivers off the road.

I look forward to the testimony of the witnesses, and I thank the Chairman for holding this hearing.

STATEMENT OF HON. GERALD B. SOLOMON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. SOLOMON. Thank you very much, Mr. Chairman.

Mr. Chairman, as my senior Senator from New York State I bring you greetings from all of your constituents living in my dis-

trict. Senator Lautenberg, I do the same from all of your constituents that vacation in the summer time and are spending Thanksgiving up at Lake George in my district. To Senator Warner, I say hello because he is my Senator five days a week when I am here in Washington and living in Virginia. And, of course, Steve Symms taught me everything I knew before I left the House.

Mr. Chairman, I'm going to be very brief because I——

Senator MOYNIHAN. Take your time.

Mr. SOLOMON [continuing]. Know time during these waning days is important. Plus, we have four major conference reports that you gentlemen have sent over to us in the last 48 hours which we are dealing with today—defense, agriculture, D.C., the State Department authorizations, and HHS. So we have a lot to do this afternoon.

Let me be brief by commending Senator Lautenberg for this excellent piece of legislation. It is badly needed in this country.

I introduced similar legislation in the House earlier this year because I truly believe it is what we need. It is one of the most effective methods to address the serious problems of casual drug use in our country.

Currently, up to 75 percent of the money which finances the illegal drug trade in this country comes from casual drug use. Casual drug users are recreational users. They are middle-class and upper-class Americans throughout this country driving automobiles into the ghettos and inner cities of New York, Newark, Virginia, and across this country using their driver's licenses to finance this drug war.

Yes, we should do everything possible to interdict drugs coming into the country. Yes, we should provide adequate funds to treat addicts. And yes, we should jail—and in some cases even execute—those involved in the sale of drugs in this country.

These so-called remedies to the war on drugs are helpful and they must continue. We must live up to our obligations and fund those efforts.

But let's not kid ourselves. That is not enough. They are not the solution, because they don't get to the root of the problem. Our Coast Guard, and now our military, Senator Warner, are heavily involved in interdicting illegal drugs, as they should be. We are spending billions and billions of tax dollars, as Senator Lautenberg has said, to treat and rehabilitate addicts and to educate the public, and we're jailing the drug pushers by the tens of thousands throughout this country.

But let's face reality. We could jail every drug pusher and every drug lord in the world today and new ones would pop up tomorrow because of the enormous profits involved in this deadly trade. There is only one real solution, and that is to eliminate the market by eliminating the demand—not just fight the supply, but eliminate that demand.

The bill that I introduced, which is H.R. 3051, is targeted to the casual drug user. My bill would reduce Federal highway funds by 2 percent annually to States that fail to suspend the driver's licenses of persons convicted of drug offenses. Convicted drug users under the minimum age for license applications would find that minimum age moved back another six months, which is a very effective

thing for those youngsters coming on line waiting for 16 years to get that driver's license. That's the rite of manhood or womanhood. Get that driver's license. That would be revoked.

This approach would send a meaningful message to the youth of our country, and at the same time of their life when they are most impressionable and the most susceptible to peer pressure to try drugs.

I am a father of five children, and I understand what this problem is. Believe me. They are also yearning for that great rite of passage into adulthood, as I said, to get that first driver's license.

I am a great believer in conditioning benefits to responsibilities, and eight years ago the Congress approved and the Supreme Court upheld my amendments, which were called the Solomon Amendments back in those days, conditioning the responsibility to register with the Selective Service to the right to receive higher education benefits. That has been a tremendously successful law that was upheld by the Supreme Court, raising the compliance rate for registering for the draft to 98.5 percent—the highest in the history of this Nation during all the wars.

The New Jersey Division of Motor Vehicles—as you're going to hear later, and which I researched—suspended the licenses of more than 9,600 drug offenders under their State law last year, and Oregon has a successful law doing the same thing. I think, gentlemen, that the time has come to extend this law nationwide. I think that money and rhetoric are not going to win the war on drugs. Casual drug users are going to continue to finance the drug trade in this country as long as they believe they can go unpunished.

Taking away driver's licenses in an automobile-oriented society will show that we are serious. And for the drug lords and drug pushers, remember that no one can stay in business when they lose their customers.

Senator Symms, my record of States' rights is just as good as yours. As a matter of fact, even on the 65-mile an hour speed limit I was the only member of the State legislature to vote against it when they lowered it to 55. I don't think the government ought to be sticking their nose into it.

But there comes a time when we have a problem throughout rural America. My district covers 8,000 square miles. Rural America has a terrible drug problem. We're not going to solve it unless we do everything we can. Gentlemen, you and I—unfortunately or fortunately—have it within our power to do something about it. Let's do it.

I commend you, Senator Moynihan, and you, Senator Lautenberg, for taking initiative on this very important issue.

I'll be glad to answer any question you have.

Senator MOYNIHAN. Senator Lautenberg, I'm sure you want to comment.

Senator LAUTENBERG. I appreciate the support and the ability to work with the distinguished gentleman from New York on this matter. We'll not hold him here. He indicated that he had several conference reports to deal with.

But he said one thing, and since I am rather parochial about my home State—did you say your district had 8,000 square miles?

Mr. SOLOMON. Absolutely.

Senator LAUTENBERG. Going from where to where? I know the area very well.

Mr. SOLOMON. It starts from 40 miles outside of New York City at about West Point and Hyde Park, FDR's home town, and goes all the way to Lake Placid, New York, which is a huge area.

Senator LAUTENBERG. The whole of New Jersey with eight million people has about 7,500.

Mr. SOLOMON. That's right.

Senator LAUTENBERG. Anyway, I thank you very much, Congressman, for being over here.

Senator MOYNIHAN. We have more black bear.

Senator LAUTENBERG. Jersey doesn't give way in many areas. There were over 200 bears shot in New Jersey last year, and there are a lot more bears running around in Atlantic City.

Senator MOYNIHAN. Senator Warner, would you like to comment?

Senator WARNER. No, Mr. Chairman.

I think we are privileged to join with you on this. We're glad to have you come over.

Senator MOYNIHAN. I don't think Senator Symms should be allowed to make any more comments.

Senator SYMMS. Mr. Chairman, I want to say this to my former colleague and good friend in the House: I think you make a rather persuasive presentation. My mind is not set completely in concrete on this. I'm going to listen to the whole discussion, and I think that you make some very good points.

I would also say that with respect to the drug war I think that issues like this will probably have a bigger impact than how much money is appropriated by Congress to wage the so-called war on drugs.

Senator WARNER. Good. You're coming around.

Senator SYMMS. My mind is open on this issue.

Mr. SOLOMON. Actually, Senator Warner, I taught him a few things when he was over there, too.

Senator SYMMS. But I want to say one thing. Everything that I taught him didn't take, obviously.

Senator MOYNIHAN. Thank you.

Mr. SOLOMON. Senator Moynihan, even though it is late in the session, as one of the senior members on the Rules Committee in the House, you get Senator Lautenberg's bill over to us and we'll run.

Thank you very much.

Senator MOYNIHAN. Thank you very much.

We're now going to hear some supportive testimony, as I have reason to understand from having the text in front of me, from our new and very welcome Federal Highway Administrator, Doctor Thomas Larson.

Doctor, would you please come forward? We welcome you once again.

We're going to have to move to a five-minute rule now. You take as much time as you need, but we're going to put the lights on anyway.

STATEMENT OF THOMAS D. LARSON, ADMINISTRATOR, FEDERAL HIGHWAY ADMINISTRATION, ACCOMPANIED BY GEORGE REAGLE, ASSOCIATE ADMINISTRATOR, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Mr. LARSON. Thank you very much.

Mr. Chairman and members of the committee, my name is Tom Larson. I am pleased to be here with you. I have with me Mr. George Reagle, the Associate Administrator for Traffic Safety Programs in the National Highway Traffic Safety Administration.

I will be brief.

Senator MOYNIHAN. Mr. Reagle, we welcome you, sir.

Mr. REAGLE. Thank you, sir.

Mr. LARSON. The Federal Highway Administration supports the goals of this proposed bill. This is clearly an area where the violence and lawlessness associated with drug abuse justifies the adoption of strong enforcement measures, as outlined in the President's national drug control strategy. The Administration supports initiatives which would reduce drug abuse.

Regarding the specific proposals contained in S. 1804, there are several considerations that we believe would suggest deferring action on this bill for further consideration. I'll be brief on these. One is the very strong tendency in State actions that has already been noted. Second is the possible question of legal and practical implementation factors.

As a transportation person in Pennsylvania, when there were alcohol sanctions imposed I recall vividly the very real difficulties of picking up suspended licenses—particularly in urban areas. It was a major problem that we never did really resolve fully.

A third question that I would raise is one from the Federal Highway perspective: the appropriateness and effectiveness of continued sanctioning of the trust fund.

In the meantime, the department is aggressively implementing other drug initiatives. Over the past several years the Department of Transportation has been a leader in establishing appropriate substance abuse programs for its own employees and employees in transportation industries subject to DOT regulations.

For example, in September, 1987, the department commenced a comprehensive drug testing program for its civilian employees, including random testing of over 30,000 employees in safety and security-sensitive positions.

In November of 1988 the department announced rules requiring drug testing of transportation workers in safety and security-related jobs, including approximately three million truck drivers, bus drivers, and drivers hauling hazardous materials. The rule affecting motor carriers with 50 or more drivers goes into effect on December 21, 1989.

Except for random and post-accident testing, which is under a court injunction—and that goes back to my question of the legal implications here, perhaps—smaller carriers must begin testing in December of 1990.

I think the commercial driver's license program deserves special note. Drivers will be disqualified from operating commercial motor vehicles for a minimum of one year for driving under the influence

of drugs and/or alcohol. Upon a second such conviction the driver faces a lifetime disqualification. Any person who operates a commercial vehicle in the commission of a felony involving the illegal manufacture, distribution, or dispensing of a controlled substance or possession with the intent to distribute will be disqualified for life.

In summary, while I am very strongly supportive of the goals of the legislation, it seems that more time may be helpful to consider the very many complex issues that are involved.

This concludes my formal presentation, but we would be pleased to answer questions, Mr. Chairman.

Senator MOYNIHAN. Doctor, or Mr. Reagle, walk us through that again. You support this legislation but you don't want it enacted yet? I'm sure Mr. Lautenberg has a clearer grasp. What is it that we would learn or what would happen if we don't move with dispatch? What is up there awaiting determination?

Mr. LARSON. Several areas, Mr. Chairman, I think will be clarified with some time. One would be the very strong tendency toward State action that is already in motion.

Senator MOYNIHAN. I heard you say we might look up what the States have done.

Mr. LARSON. They are moving very strong.

Senator MOYNIHAN. How many States?

Mr. LARSON. Approximately half of the States have laws that either require or permit suspension or revocation of a drivers license upon conviction of a drug offerse. Most of them are, in fact, permissive at this point in time, but there is a strong wave of action.

Senator MOYNIHAN. Perhaps you'd give us a list of the States that have taken action and some classification.

Mr. LARSON. We have that list and we will provide that list. Yes, sir.

[The information requested follows:]

The following States have laws providing for the suspension or revocation of a driver's license upon the conviction of illegally possessing a controlled substance.

Alaska. A person between 13 and 17 who is convicted of possessing a controlled substance may have his driver's license revoked as follows. For a first offense, the license may be revoked for not more than 90 days (45 days are mandatory). For a second or subsequent offense, the license may be revoked for not more than 1 year (6 months are mandatory). See § 28.15.185.

Arkansas. A person under 18 who is convicted of any criminal offense involving the illegal possession of a controlled substance may have his license suspended for either 12 months or until age 18, whichever is the longer suspension period. However, a restricted hardship driving permit is available for either employment or educational purposes. See §§ 1, 2 & 3 of Act 93 (1989) (third extraordinary session of the legislature).

California. A person between 13 and 20 who is convicted of possessing a controlled substance may have his driver's license suspended or revoked for 1 year. This suspension or revocation is mandatory. An adult's or minor's driver's license may be suspended or revoked for up to 3 years for the illegal possession of a controlled substance, provided "the use of a motor vehicle was involved in, or incidental to, the commission of the offense." This suspension or revocation is mandatory if the person possessed certain controlled substances. Note: It is legal to possess small amounts of marijuana. See Health and Safety Code § 11357 and Vehicle Code §§ 13202 and 13202.5.

Colorado. A person convicted of a felony offense for the possession of certain controlled substances may have his driver's license revoked. For a first offense, the license may be revoked for 3 months. For a second offense, the license may be revoked for 1 year. These revocations appear to be mandatory. See §§ 42-2-122(1)(l) and 42-2-124(2)(b).

Indiana. A person's license may be suspended or revoked for not more than 6 months upon conviction of possessing or using a controlled substance when the offense involves the use of a motor vehicle. See § 9-2-1-5(b)(6) & (d)(1).

Kentucky. A person between 14 and 17 may have his driver's license revoked for the possession of a controlled substance. For a first offense, the revocation period may not exceed 1 year. For a second or subsequent offense, the revocation period may not exceed 2 years but not beyond the person's 18th birthday. See § 218A.991.

Louisiana. As a condition of probation for a violation of the controlled substances law (e.g., possession), the court may order that a defendant's driving privileges be suspended or restricted. See Code of Criminal Procedure Art. 895(c).

Massachusetts. For any violation of the controlled substances law (Chapter 94C) (e.g., possession), a person's license may be suspended for not more than 5 years. See 90 § 22(f).

Missouri. A person under 21 who is convicted of any offense involving the possession of a controlled substance may have his license revoked for 1 year. A person over 21 who is convicted of possessing a controlled substance while operating a motor vehicle may also have his license revoked for 1 year. See §§ 577.500, 577.505 and 577.510.

Montana. A person under 18 who has been convicted of possessing an "intoxicating substance" may have his driver's license confiscated by the court for not more than 90 days. However, this sanction may not apply if such person is tried in youth court. See § 45-5-624(2)(c) & (3).

Nevada. A person under 18 may have his driver's license suspended for 6 months if convicted of possessing, using or selling a controlled substance. See §§ 62.020(2), 483.250(8) and Chapter 618 of the Laws of 1989.

New Hampshire. A person between 15 and 17 may have his license revoked if convicted of possessing, selling, using or abusing a controlled substance. For a first offense, his license may be revoked from 90 days to 1 year. For a subsequent offense, his license may be revoked from 6 months to 2 years. See § 263:56-b, I & II.

New Jersey. A person's right to operate a motor vehicle may be "forfeited" for not less than 6 months nor more than 2 years if convicted of violating the controlled substances law (e.g, possessing, selling or distributing a controlled substance). The minimum 6 month period of license "forfeiture" appears to be mandatory. See § 2C:35-16. Also, a person's right to drive may be "forfeited" for 2 years for operating a motor vehicle while possessing any controlled substance. This sanction appears to be mandatory. See § 39:4-49.1.

New Mexico. A minor 15 or older who is convicted of possessing a controlled substance (or any violation of the controlled substances act) may have his driver's license revoked. For a first offense, his license may be revoked for 90 days. For a second offense, his license may be revoked for 1 year. See §§ 32-1-3(o) and 32-1-34(5).

Oklahoma. A person 17 or younger who is convicted of any offense involving the possession of a controlled substance may have his driving privileges cancelled. For a first offense, the license must be cancelled for 1 year or until the person reaches 17, whichever is longer. A 90-day cancellation is mandatory. For a subsequent conviction, the license must be cancelled for 1 year or until the person reaches 18, whichever is longer. A 1-year cancellation is mandatory. See 47 §§ 6-107.1 and 6-107.2.

Oregon. A person between 13 and 17 who is convicted of any offense involving the possession of a controlled substance may have his driving privileges suspended. For a first offense, the license must be suspended for 1 year or until the person reaches 17, whichever is longer. A 90-day suspension is mandatory. For a subsequent conviction, the license must be suspended for 1 year or until the person reaches 18, whichever is longer. A 1-year suspension is mandatory. See §§ 809.260 and 809.280.

Pennsylvania. A person's license may be revoked for 5 years if he has been convicted 3 times of the following offenses, either separately or in combination: (1) driving while his license is suspended or revoked; (2) driving a vehicle that has a suspended registration; (3) driving a vehicle without the owners consent; (4) using a vehicle to unlawfully transport a controlled substance; and (5) committing a felony in which a motor vehicle was essentially involved. See 75 § 1542.

Tennessee. A person between 13 and 17 who is convicted of possessing, using, selling or consuming a controlled substance may have his driving privileges suspended (denied). For a first offense, his license may be suspended for 1 year or until 17, whichever is the longer suspension period. Ninety days of the period are mandatory. For a second or subsequent offense, the license is suspended for 2 years or until age 18, whichever is the longer revocation period. A 1-year period of suspension is mandatory. See §§ 55-10-2 et seq. and Public Chapter No. 64 of the Laws of 1989.

Texas. A person under 17 who is convicted of possessing either marihuana or another controlled substance, may have his driver's license suspended as follows. For a first offense, the license is suspended until age 17 or for 365 days, whichever is the longer suspension period. For a subsequent offense, the license is suspended until age 18 or for 365 days, whichever is the longer suspension period. An occupational license is available. See Civil Statutes Art. 6687b, § 23A and Family Code §§ 51.02(1) & 54.042.

Utah. A person between 13 and 17 who is convicted of either possessing or using a controlled substance may have his driving privileges suspended. For a first offense, the license is suspended for 6 months or until age 17, whichever is the longer suspension period. Six months of this period are mandatory. For second or subsequent offense, the license is suspended for 1 year or until age 18, whichever is the longer revocation period. A 1-year period of suspension is mandatory. See §§ 41-2-126.5 and 78-3a-39.5.

Washington. A person between 13 and 17 who is convicted of possessing a controlled substance may have his driving privileges revoked. For a first offense, the license is revoked for 1 year or until age 17, whichever is the longer revocation period. Ninety days of this period are mandatory. For a subsequent offense, the license is revoked for 1 year or until age 18, whichever is the longer revocation period. A 1-year period of revocation is mandatory. See Ch. 148 of the laws of 1988.

Mr. LARSON. The second point refers, in part, to the experience in the commercial driver's license program, but also a court action in Illinois which has called into question the legality of certain kinds of sanctioning actions. We think that it would be useful to perhaps have more understanding.

Senator MOYNIHAN. What legality? What grounds? The United States Congress can withhold Federal funds for any purpose that is otherwise recognizable at law. The same statutes which have allowed half the States to take some measure of this kind would allow us to do it, I would have thought.

Mr. Reagle, did you have a comment?

Mr. REAGLE. Yes, sir. I think in the case in Illinois, the driver's license specifically was revoked or suspended upon conviction of certain sex offenses. The court found that, in fact, the imposition of sanctions for that was not related to the driving task, I believe. It was the Supreme Court of Illinois.

Senator MOYNIHAN. I have to say with great regret that we are not involved with sex offenses; otherwise, we would have more than one television camera.

Mr. REAGLE. I believe you're correct, sir.

Senator MOYNIHAN. I suggest that may not be persuasive to the committee, but let us know.

Senator Lautenberg.

Senator LAUTENBERG. The temptation to discuss the removal of the license for sex offenses is a great one, but we won't spend a lot of time on that. But I would guess that a sex offender doesn't have an impact on safe driving in any way. I don't know whether they were just not connected in terms of crime versus punishment.

Senator MOYNIHAN. That might be it. The courts might address that kind of question: what does one thing have to do with the other?

Senator LAUTENBERG. Yes. Doctor Larson, thank you for being here. I appreciate your support for the general purpose of the bill, and that is to take away or at least to provide an incentive in reverse form not to partake of casual drug use. Do you think that States should suspend the driver's license—we mentioned a number of States—of people convicted for drug offenses?

Mr. LARSON. The general thrust of the legislation is one that I personally have strong support for. Everything that has been said about the problem in the U.S. I certainly endorse. The mechanisms are really the point.

Senator LAUTENBERG. You're just talking about the highway portion, if I understand correctly.

Mr. LARSON. That's correct.

Senator LAUTENBERG. But it is very important that the record reflect your views on the goal of the legislation. Do you believe that suspending the driving privileges of convicted drug offenders would remove a dangerous element from the roads and perhaps save lives, save injuries, and save accidents?

Mr. LARSON. My comment there, sir, is that there is the practical question of actually stopping the use of a vehicle as opposed to the legal action of suspending a license. Those two are not necessarily synonymous.

Senator LAUTENBERG. Right.

Mr. LARSON. There is a physical act of picking up a driver's license and, as I said, in my Pennsylvania experience I found that this was a very difficult thing to do, specifically in the Philadelphia area.

Senator LAUTENBERG. Right. But rather than discuss the problem with administering the law, do you think that if we did suspend driver's licenses for those who are drug offenders that we would remove a dangerous driver from the roads and perhaps save lives or save injuries or save accidents? Do you think it is a good idea, no matter how difficult it is to achieve? Is it a good idea to take away the driver's license of someone who has been a drug offender or drug user?

Mr. LARSON. Senator, I think the question does turn, in part, on the practical dimension.

Senator LAUTENBERG. Not at this point, in all fairness, Doctor Larson. I'm not asking you for the application. We do many things that we find out later prove to be impractical or not useful. What I'd like to get from you is an impression, your view. You are an educated person. You have one of the best résumés and credentials to occupy the post that you have, and you know that I welcomed you at that time. I simply ask you: with the knowledge and experience that you have, do you think that suspending the driving privileges of a convicted drug user or drug offender would remove potentially dangerous drivers from the roads? Or is drugged driving not a significant threat to life or limb or property damage on the highway?

Mr. LARSON. If we can make it a credible sanction, then I am very supportive of the concept. If it becomes a question of creating scofflaws, then I guess I would have grave reservations.

Senator LAUTENBERG. Well, we know that people violate driving laws all the time, but that doesn't prevent us from taking away a driver's license of people who are traffic offenders.

Senator MOYNIHAN. What do you say we move on here, Senator. We see Doctor Larson's point. It doesn't really become the United States Senate when we enact a law to consider whether or not it will be enforced. It damned well will be enforced. This is the United States Congress, and not some municipality.

Mr. Reagle, would you be good enough to let us have what statistics you may have with respect to the portion of persons arrested for various traffic offenses who are found to be drug impaired in some form or another comparable to alcohol

Mr. REAGLE. We would try to do that. Yes.

Senator MOYNIHAN. Do what you can for us, would you?

Mr. REAGLE. Yes.

[The information requested follows:]

Traffic Offenses and Drug-Impaired Drivers

In the National Highway Traffic Safety Administration's (NHTSA) 1988 Report to Congress, entitled "Use of Controlled Substances and Highway Safety," we concluded that

> "Our assessment of existing research is that drugs may be present in somewhere from 10 to 22 percent of crash involved drivers, often in combination with alcohol. Specially trained officers from the Los Angeles Police Department have estimated that 20% of the drivers arrested for driving while impaired are under the influence of drugs other than alcohol." (p. v)

A more recent but limited 1988 Tennessee study of alcohol and drug use was conducted on 201 drivers admitted to the trauma service at the University of Tennessee Hospital, from March 1, 1988 to July 3, 1988. Blood alcohol concentrations were obtained on 93% of these patients and urine drug screens were obtained on 82%. Controlled substances were found in 40% of the study group. The most frequent drug was marijuana in 32%, followed by benzodiazepines (12%), cocaine (5%), opiates (5%), and amphetamines/barbiturates (3%). The incidence of alcohol usage in this group was 37%. Whereas 16% used alcohol alone and 18% drugs alone, 22% used drugs and alcohol in combination. Overall, 56% of the injured drivers tested positive for alcohol, drugs or both (Kirby and Maull).

A study conducted at the Shock Trauma Center of the Maryland Institute for Emergency Medical Services Systems, Baltimore, between July 29, 1985 and May 8, 1986, examined marijuana and alcohol use among all trauma victims admitted from the scene of injury to the Shock Trauma Center. Among the 393 injured automobile drivers, 49.9% used no drug, 15.5% used marijuana only, 18.3% used alcohol only, and 16.3% used both marijuana and alcohol. Among the 70 injured motorcycle drivers, 35.7% used no drug, 14.3% used marijuana only, 24.3% used alcohol only, and 24.0% used both marijuana and alcohol (Sonderstrom, Trifillis, Shankar, Clark, and Cowley, 1988).

A study conducted at the Harborview Injury Prevention Research Center, Seattle, Washington, between February 23, 1986 and August 19, 1986, routinely collected urine specimens from 452 emergency room (ER) patients and 160 persons autopsied at the Medical Examiner's Office (MEO) were analyzed for the presence of marijuana, cocaine, opiates and benzodiazepines. Blood alcohol was also measured. The study found that drugs other than alcohol were present in the urine of more than 35 percent of 146 automobile occupants who received emergency room treatment. The study also found that nearly 50 percent of 67 fatally and non-fatally injured motorcyclists tested positive for drugs other than alcohol (Rivara, Mueller, Fligner, Luna, Raisys, Copass, and Reay, 1988).

Senator MOYNIHAN. Thank you both very much.

Mr. LARSON. Thank you.

Mr. REAGLE. Thank you.

Senator LAUTENBERG. Mr. Chairman, I reserve just one minute more time.

Senator MOYNIHAN. Okay.

Senator LAUTENBERG. I would ask Doctor Larson if he thinks that the national minimum drinking age law setting the age at 21 has been effective.

Mr. LARSON. Yes, sir. I do.

Senator LAUTENBERG. Thank you very much.

Senator MOYNIHAN. I think at that point you say, "No more questions, Your Honor."

Senator LAUTENBERG. We may submit questions in writing at a later date. Thank you both.

Senator MOYNIHAN. Thank you.

Mr. LARSON. Thank you, Mr. Chairman.

Senator MOYNIHAN. And now we have a very special privilege and pleasure. The attorney general of the State of New Jersey is with us, who is the person who can precisely speak to the question of the observance of the New Jersey law, Mr. Peter Perretti.

I'm going to break up our panels, if it is agreeable to our witnesses and to Senator Lautenberg, and ask Chief Robbins to join Mr. Perretti at the table. We welcome you, sir. This will be the New Jersey panel.

Attorney General Perretti, good afternoon, sir. Please proceed exactly as you like. We don't often have an attorney general before us, and it is a pleasure.

Senator LAUTENBERG. Just to clear the record, Mr. Chairman—Peter, your full statement will be included in the record. We are simply asking you now to do it in summary form. Your full statement will be in the record, and yours as well, Mr. Robbins. Any summaries that you want to do would be appreciated, but you have the courtesy of the witness table in full fashion, as the Chairman has said.

STATEMENT OF PETER N. PERRETTI, JR., ATTORNEY GENERAL, STATE OF NEW JERSEY, ACCOMPANIED BY RONALD SUSSWEIN, ASSISTANT ATTORNEY GENERAL

Mr. PERRETTI. Senator, I have a brief statement, and not the full statement. The brief statement contains some additional comments.

Mr. Chairman, thank you for having me.

May I introduce Assistant Attorney General Ronald Susswein, a principal policy planner and the draftsman of the New Jersey Comprehensive Drug Reform Act.

Senator MOYNIHAN. Mr. Susswein, we welcome you.

Mr. SUSSWEIN. Thank you.

Mr. PERRETTI. The New Jersey Comprehensive Drug Reform Act took effect in July, 1987. That act includes, as one of a panoply of criminal sanctions for CDS convictions, the mandatory suspension of the driver's license privilege for a minimum of six months, and grants to the sentencing judge discretion for up to a two-year suspension.

The sanction is imposed without regard to a nexus between the offense and driving. It operates if the CDS offense was, for example, committed on a park bench.

We believe that New Jersey is the first State to mandate this sanction as one amongst many available to a sentencing judge.

In 1988, 9,600 suspensions were administered under the statute. In 1989, through the end of September, 13,150 suspensions were administered by our courts and the Department of Motor Vehicles.

You should know that the New Jersey statute makes provision for suspensions ahead for those offenders who, at the time of the adjudication, are not presently licensed— postponement. For example, a 15-year-old juvenile offender will confront the suspension upon obtaining the age of 17 and first applying for his or her driver's license.

Let me speak very briefly with regard to the policy planning and considerations which undergird the New Jersey statute and which S. 1804 seeks apparently to nationalize.

At the inception, the New Jersey Comprehensive Drug Reform Act—and particulary 2C:35-16, which is the suspension or postponement provision—entitled mandatory forfeiture and postponement of drug privileges. That section was prepared by the Division of Criminal Justice of the New Jersey Attorney General's Office and our policy planning people.

Our policy planners frankly recognized that the suspension postponement sanctions would not be a substantial, meaningful deterrent for that portion of our population which some sociologists choose to call the underclass.

The reality must be acknowledged. Legal driving is a luxury which all too many Americans cannot afford, enjoy, and, in too many cases, acknowledge.

Our policy planners were, however, greatly impressed with the significance of this sanction as something designed to deal with what we call the carrier group. By this I mean——

Senator MOYNIHAN. The carrier group?

Mr. PERRETTI. The carrier group. And quite frankly, Senators, I prefer that term to recreational users. By this I mean those CDS offenders who still work and function and who relate to a peer group which is not down and out and not at the end of the line—in short, those offenders who, by their lifestyle, suggest to others, however briefly in their downhill careers, that drugs may be acceptable. Some choose to call these carriers the recreational users.

We believe that the suspension and postponement sanction is most effective with this segment of the offender population, and it is this segment which we, as a society, must increasingly focus upon. They are the carriers of the epidemic.

The down and out drug addict repels most people and does not stand as an example to anyone. For this reason, if no other, the New Jersey provision requiring mandatory suspension or postponement of the driving privilege is an extremely strong and heavy player in the war against drug abuse. It is a most effective sanction for the active carrier.

It is also the fact that our policy planners were deeply concerned with the drug culture's impact upon our young people. Here, too, we have no doubt that the sanction of revocation—and, in this in-

stance, postponement—is most effective. The fact is that most all youthful drug offenders are not headed for incarceration the first and perhaps even the second time around. And imposition of monetary fines is all too often not realistic with young people.

Simple logic and reason, coupled together with our own recollection of the importance of the driver's license for this age group, produces the compelling answer.

The New Jersey statute and the sanctions which we are here discussing are addressing—and they are, I say, the most effective in their impact upon—these two categories of drug users: carriers of the epidemic and youthful offenders.

In that regard, then, I am here today to commend you and to commend to you the critical importance of the revocation and suspension provisions of the New Jersey Comprehensive Drug Reform Act and the wisdom of your S. 1804. We think it is essential.

I commend the sponsors of S. 1804 and I urge them to do that which is necessary to give other States the benefit of the New Jersey suspension and postponement sanction. We deeply believe in it.

Thank you.

Senator MOYNIHAN. Mr. Perretti, may I just interrupt to say that that's an absorbing term, and there is, as you probably know, evidence in this regard of very considerable importance.

I knew for years a man who just died, Doctor Norman Zinberg, who may have been the only full-time medical person working on drug abuse and youth medicine. He would continually make the image of persons who have a contagious disease. A contagious disease is transmitted in the earliest hours in which it is contracted by the person who is now the carrier. It is not long after you have it and are clearly sick of it that you can give it to others, but, indeed, it is when it appears that you don't know that you have it and they don't know you have it.

He'd make the point that drug use is communicated from one person to another in the very earliest stages of drug use, not when you are a druggie.

There was a stereotype of the old pusher in a raincoat hanging around the schoolyard. That man presents no peril to anyone; it is the classmate who started using substances last week and still thinks it is an extraordinary experience. I like your term. I didn't want to interrupt, but I just wanted to say that there is a lot of medical corroboration for what you just said.

Mr. PERRETTI. And unfortunately, Senator, it is to the carrier group sometimes appearing as the recreational user upon first offense in the courtroom that all too often the sanctions of jail are not addressed. And what are the other sanctions, really?

Senator MOYNIHAN. We are dealing with a public health emergency and you really have to think in terms of epidemiological patterns. The epidemiologists would quickly identify the automobile as a vector for the carriers and say to break the vector.

Let's hear from Mr. Robbins, and then we'll hear from the whole panel.

STATEMENT OF LIEUTENANT ROBERT J. ROBBINS, LINDENWOLD, NJ, REPRESENTING THE NATIONAL FRATERNAL ORDER OF POLICE

Lieutenant ROBBINS. Mr. Chairman, Senator Lautenberg——

Senator MOYNIHAN. We welcome you on behalf of the Fraternal Order of Police. You happen to be from New Jersey. You're on the legislative committee, but you're representing the whole Nation.

Lieutenant ROBBINS. Yes, sir. I thank you for the opportunity to be here, sir. My name is Robert Robbins. I am a lieutenant in the Lindenwold Police Department in the State of New Jersey.

Senator MOYNIHAN. Lieutenant Robbins.

Lieutenant ROBBINS. As long as my chief doesn't hear this testimony, I'll be all right.

I'm testifying today on behalf of Mr. Dewey Stokes, president of the National Fraternal Order of Police and the 203,000 police professionals who are members of our organization.

NFOP represents the cop on the street. As you might expect, we tend to look at proposed laws with a view toward their workability and practical effect.

The legislation before you today, Mr. Chairman, S. 1804, is a bill that the FOP strongly endorses because it targets an area long overlooked in the war on drugs: the young and the casual user.

While the supply side of the illegal drug trade receives a lot of attention, covering the demand side is equally important.

The young and the casual drug user probably remains the most frustrating example of why the scourge of illegal narcotics is so insidious. These individuals continue to line the pockets of drug lords with American dollars. These individuals are the backbone of the drug industry. If these casual users cannot find a way to stop themselves, then let's make the risk so great that the high is just not worth it.

Clearly, one way to do that is to go after possessions or privileges which occupy a more prominent place in these people's lives than does getting high.

Having been a law enforcement officer for 22 years, I know the importance that our teenagers place on obtaining a driver's license. Two of my own daughters are teenagers, and I know they worry about getting their driver's licenses.

The working person that is a casual user will also have to be concerned because the loss of driving privileges could also mean a loss of work.

The FOP would take this opportunity to identify one area of the bill which I feel warrants particularly careful consideration by the subcommittee during deliberations—the provision dealing with the reduction of Federal highway funds to those States failing to implement desired revocation statute.

In the United States there are at least seven States where their State police or highway patrols are under the immediate jurisdiction of the State Department of Transportation. Our concern is that a reduction in the Federal highway funding to these departments may cause a ripple effect whereby budget cuts could be visited upon law enforcement to make up the shortfall.

At the very least, and assuming that the legislation remains as is, there should be some safeguards built into this statute clearly prohibiting the type of budgetary rearranging the FOP feels may take place.

The FOP, which is the largest national professional police organization in the United States, commends you Mr. Chairman and Senator Lautenberg for holding this hearing today. I appreciate the efforts of the Senator from my own State. We strongly encourage your support for the concept that is driving S. 1804 and trust that you would give it your timely consideration.

Senator MOYNIHAN. We thank you, Lieutenant Robbins.

Lieutenant ROBBINS. I will send that to [illegible]ief.

Senator MOYNIHAN. And can I ask, on b[illegible] of the subcommittee, if you would let us have in writing, however informally it might be, just what safeguards you would have in mind with respect to the statute? You mentioned safeguards.

Lieutenant ROBBINS. Yes, sir.

Senator MOYNIHAN. Give us, in writing, when you have a moment not too far distant, and tell us exactly what you have in mind.

Lieutenant ROBBINS. Within the next couple of days I will have it for you.

Senator MOYNIHAN. Spoken like a lieutenant.

Senator Lautenberg.

Senator LAUTENBERG. Thank you very much, Mr. Chairman.

Both of the people at the witness table are good friends of mine.

Attorney General Perretti, soon to be back to the practice of law, left a very successful law practice in response to a plea from the Governor to take over an important assignment that was left vacant, and Peter Perretti jumped in the breach, as he always has on community affairs matters affecting the law. He is a good fellow. I first met him on the street while I was weeping over my dog that had just been hit by a car. We were neighbors.

Robbie Robbins and I have worked very closely on a lot of things. In the last couple of years he has become both a father and mother to his kids with the loss of his wife at a very young age. As a consequence, he has that special feeling about making sure that youngsters have all the chance in the world to survive and get by.

Robbie, we're glad to have you here.

Attorney General, this now is another option to incarceration. Very often charges, as I understand it, are not pressed because the so-called casual or carrier drug user might not be considered an offender at the criminal level and people are reluctant to prosecute and put someone like that in jail; whereas, a suspension of a license might serve as punishment enough for that kind of offense. How does that strike you? Is that an option that is used and should be available in all cases?

Mr. PERRETTI. This is probably the most effective option short of incarceration for the classification of people who I choose to call carriers and for that group of people who are juveniles. Unless they run afoul of our school zone sentencing mandatory sentencing class where there might be mandatory sentencing, when th[illegible] first present themselves into the criminal justice system upon first apprehension they are more likely to wind up in some sentencing

mode other than incarceration. This is the most effective sentencing mode for those two classifications of people.

Senator LAUTENBERG. Has the New Jersey license suspension law created unreasonable administrative burdens?

Mr. PERRETTI. Senator, the Department of Motor Vehicles in New Jersey is a part of my office, and I'm acutely aware of its operations. It has not created any unreasonable burden upon our Department of Motor Vehicles. Indeed, I might say that at the time this law went into effect in 1987 the department was in the middle of moving from one generation of computers to another. There was in New Jersey—I think you know this—a computer crash.

Senator MOYNIHAN. On the turnpike.

Mr. PERRETTI. It was said with some accuracy that this disenabled the Department of Motor Vehicles for some months. Our Department of Motor Vehicles was able to administer and implement this law during a green eyeshade period of its operation. Now that the modern computer is up and running successfully, we characterize the job as easy.

Senator LAUTENBERG. Some have said that the inner city youngster who doesn't have a car isn't concerned about a driver's license. Is that good enough reason not to have a license suspension law? Is it true, in fact?

Mr. PERRETTI. I wish to make the point, Senator, that the calculations with the policy planners for this statute were that although this sanction may not be meaningful to what I refer to as the sociological term, the underclass, it probably is not as meaningful there. That is no reason to cast it aside, because it is terribly meaningful to the carrier group and to our youth. And those two groups probably—it is arguable—are the groups that are spreading the plague which is moving down.

The thought very often is that it starts in the city and it comes out. Quite frankly, I disagree with that. I think it started and it has moved down the socioeconomic scale. I think we know that about cocaine. And the disease has moved down the socioeconomic scale into the inner city. I think that is true in the case of the drug known as cocaine.

Senator LAUTENBERG. We're going to be pressed for time. I have one more question of the Attorney General, Mr. Chairman.

Do you have any doubt—this is to make sure the record is clear—that license suspension serves as a real deterrent to illegal drug behavior or casual drug use or carrier use, or what have you?

Mr. PERRETTI. We have absolutely no doubt at all. We are tracking the New Jersey experience which, as we said, began in 1987. We believe that some time, hopefully as early as January, we will be able to provide more than intuitive answers. We will be able to provide and supply some data.

Senator MOYNIHAN. By January?

Mr. PERRETTI. I think hopefully by January.

Senator MOYNIHAN. Mr. Susswein says by January.

Mr. SUSSWEIN. We hope so.

Mr. PERRETTI. But I must say that at this point in time our answers are judgmental and some people would characterize them as intuitive. We think we know it is working. It is working with these two classifications of people.

Senator MOYNIHAN. May I say to my colleague it is not hard to understand why the governor asked Mr. Perretti to become the Attorney General.

We do have to vote. There are five lights that are warning us. I have to go to a conference committee after this, and I'm going to ask Senator Lautenberg to preside, if he would.

I want to say that I have been very impressed. I am very much aware that New York State does not have the statute New Jersey has, and I am increasingly of the view that it ought to. One of the clear ways to see that it does is to pass Mr. Lautenberg's bill.

The committee will stand in recess while we run off and vote for the 58th time on capital gains.

[Recess.]

Senator LAUTENBERG [assuming Chair]. We can resume.

Senator Moynihan had to go elsewhere, and I am going to Chair the remainder of the hearing.

Mr. Attorney General, we asked a question before, and I just want to clarify the record. Would you think that police are more likely to arrest drug offenders if those arrested are more likely to be subjected to a sanction that is realistic, given the alternative between zero and incarceration?

Mr. PERRETTI. Senator, there is something happening that I think experienced law enforcement people recognize, and that is that when a society gets to the point where its jails are full, when New Jersey gets to the point where its State custodial system is at about 117 or 118 percent of capacity—although we're one of the few States not under Federal court order in our State system—where some of our county jails are 300 percent over capacity, the truth of the matter is that the justice system and courts back up and law enforcement—I call it the front end of the system. A certain malaise can begin to set in. What's it all about anyway? Why bother?

Law enforcement, at the front end, when it comes to recognize that nothing is happening, like it or not, no matter how many orders can go out from an Attorney General in an action plan, we have to be realistic. There is this element of malaise and skepticism that can set in unless society is willing to back law enforcement up strengthen our courts and give our courts a panoply of sanctions that can be used in appropriate cases.

Senator LAUTENBERG. Thank you very much.

Lieutenant Robbins, I wanted to just confirm a couple of things. You expressed a concern, and I agree, that we have to be very careful of not reducing funding for law enforcement because we are taking away those funds from States that don't comply. New Jersey does comply and sets a good example, I think. What we found with the age 21 drinking bill was that as soon as States saw that we meant action they then got behind this thing. None of them wanted to lose any money, though there was some debate as to whether or not they were willing to sacrifice some of the funds. But eventually they all came around.

So we will be cognizant of that, but we would believe that the purpose of the law is enough to make sure that States comply. But this is a hearing that will help us develop the information base that we need.

From the perspective of the cop on the beat, the policeman on the front line on the war on drugs, how important is it to deter the casual use of drugs or the carrier-type of person from the system? Is that an important part of the fight that we have to maintain?

Lieutenant ROBBINS. Yes, sir. I'm sure it is. As you alluded to previously—and the Attorney General has, also—there is nothing more frustrating to the officer on the street who makes an arrest. By the time he has completed his paperwork, the defendant who he has arrested has already made bail and is home doing whatever it is he's doing while the officer is still doing his paperwork. When he goes to court—maybe after a midnight shift he gets done at 8:00 in the morning and has to be in court at 9:00 in the morning. He sits around until a lunchtime recess, and maybe at 1:00 his court case gets called. And then the defendant gets a suspended sentence, no fine, and walks out the door. It is kind of frustrating, and it happens every day all across this country.

With driver's license suspensions at least the officer would feel something has happened to that individual.

Senator LAUTENBERG. Do you think, again, with the experience as the father of teenagers, that the license suspension law gets the attention of young people?

Lieutenant ROBBINS. My threats to my daughters for having bad grades and not being able to get a driver's license have severely—they realize the threat of not getting a driver's license, and it does upset them.

Senator LAUTENBERG. I tried the grade thing until my kids found my college report cards. That took the pressure off the grade thing, but I told them I worked full time.

I know that the police, for good reason, get frustrated by the bureaucracy, as you suggested, and we want this to be able to help apply effective punishment, because it is severe punishment. We want to reduce the demand. We want people to think about what happens if they do try it and if they get caught with it. It is a pretty severe penalty.

I know that I waited a long time. Days seemed an eternity as I got closer to that 17. In New Jersey we still have an age 17 driver's license requirement. Our neighbors don't on either side. I think in Pennsylvania and New York you can get licensed at 16. But I couldn't wait until that day came.

So I hope that we can get their attention this way. We'll certainly keep in mind the problem that you have identified, Lieutenant, with the police departments getting money from the departments of transportation for their functioning. But we found out one thing: incentives don't often work. You can see it by the administration of speed limit laws. You can see it in other cases.

Once you say we are going to reduce your highway funding it makes people sit up and take notice. We hope that we will come up with a balance.

I appreciate your being here and thank you both for making the trip. The full testimonies, as I said, will be accepted for the record. For the purpose of the record, we may submit further questions to you in writing and would ask that you would respond to that.

Mr. PERRETTI. I would be happy to do so, Senator. And we will send to your office the experience that we're tracking where we hope to have some data by January.

Senator LAUTENBERG. Yes. If it's done by January.

Mr. PERRETTI. As soon as we do we will be in touch.

Senator LAUTENBERG. That would be very helpful, because we'd like to get on this bill as soon as we are back from the recess which, in this case, will be January 23rd or 24th. We'd like to get right on it, and whatever you could get us by that time we'd appreciate. Thank you both for being here.

Mr. PERRETTI. Thank you, sir.

Lieutenant Robbins. Thank you.

Senator LAUTENBERG. See you back home.

I wonder if we can ask Doctor Maull, Ms. Lowe, Representative Box, and Mr. Paul Jones to all come to the table at this time. We're going to give Representative Box, who is a member of the National Conference of State Legislators, a chance to be heard first, and then we will excuse you since we know that you have a pressing engagement. We'll make sure that any things that we have for your review—questions, etc.—we'll send to you. We'll hear from Representative Box first. Please just tell us and make sure that we know that you're from the Alabama House of Representatives.

STATEMENT OF HON. MICHAEL BOX, ALABAMA HOUSE OF REPRESENTATIVES, REPRESENTING THE NATIONAL CONFERENCE OF STATE LEGISLATURES

Mr. Box. Thank you, Mr. Chairman.

I am Mike Box, a member of the Alabama House of Representatives. I am here representing the National Conference of State Legislatures today. I will be serving as the chairman of the NCSL Committee on Law and Justice in the upcoming year.

First of all, I'd like to thank you and the members of the committee for all of the past support that you have given to NCSL. We have had a very good working relationship with the subcommittee over the years, and we hope that this will continue.

I have submitted a written statement for the record. At this time I'd like to briefly summarize NCSL's position on S. 1804.

First of all, let me emphasize that we believe that it is a very good idea for the simple reason that teenagers do value their mobility and the threat of revoking their driving privilege can serve as a deterrent.

Linking the abuse of drugs to the privilege of driving has been gaining support and much strength in the States over the years. In fact, in 1989 some 20 States had legislation dealing with this subject. I have included a copy of State legislative activity in this area with my written remarks, and the staff of NCSL is available to any of the members of the subcommittee who would be interested in knowing what has been going on in their home State.

I emphasize State legislative activity to make the point that a Federal mandate is unnecessary. I do not think that the States are any less committed to the war on drugs than is the Federal Government. As a matter of record, States spend substantially more

money in areas of criminal justice and corrections than that allowed under the Federal budget, and in this area we are already taking steps similar to those that would be required under the provisions of S. 1804.

For example, I have sponsored legislation in the State of Alabama that would call for the revocation of driving privileges for anyone convicted of a violation of a controlled substances act. My bill would set up increasing penalties with subsequent convictions. For example, for the first conviction we would suspend the license for 90 days. For the second one it would be a year. The third one would be three years. We provided the discretion with the Department of Public Safety to issue waivers for work and school.

Other State approaches vary from this, for example, in the nature of the offense that triggers the revocation, the actual duration of the revocation, the age group affected, and the waivers allowed. Variations such as these are not easily accommodated in a national program. As the appropriate licensing authority, State qualification determinations should prevail.

There are compelling reasons for States to vary their approaches to license issuance and revocation. Driving needs vary from State to State, as do social and economic goals.

These questions have been addressed and will continue to be so at the State level. We have already begun to examine them. But they will not be answered by a sweeping Federal mandate. They must be resolved in each State as legislators attempt to find the best approach in their homes to eradicating the drug problem while still preserving individual liberties.

I would simply ask that this subcommittee proceed cautiously into another area of Federal preemption. If the thrust of S. 1804 is truly a good idea—and I believe so, since I have sponsored similar legislation in Alabama—then it will surely catch on in other States, as well, but in a deliberative and distinct manner and without Federal mandates.

Thank you, Mr. Chairman, for your time and attention. I will be glad to respond to any questions that you might have.

Senator LAUTENBERG. Thank you very much, Representative Box.

I respect your point of view and am pleased to note that Alabama is one of the States that has enacted legislation to deal with the problem. However, it is fair to say, is it not, that all States have not done so, and that the person who is a user—casual or otherwise—who may be driving under the influence of drugs can easily cross the State border and, of course, then is exempt if caught in a State that doesn't have the same kind of restriction—the fact that this may even help in the case of trafficking?

I don't know whether you are aware of the results of the 21 drinking age bill in your State. What was Alabama's drinking age before we had Federal law to control it? Do you know?

Mr. BOX. It was 19.

Senator LAUTENBERG. Do you see any change in the fatality or accident rate among teenagers?

Mr. BOX. I'm sorry, Senator, I don't have that information available.

Senator LAUTENBERG. New Jersey had a very painful experience. We went from 21 down to 18, and the fatality rate increased sub-

stantially. Then we raised it to 19 and the fatality rate reduced slightly. When we went back up to 21 we cut the fatality rate by one third. So it was a direct correlation between the age and the number of accidents that involved either injuries or fatalities. We have kind of found that across the country.

You may have heard earlier that it is estimated by some agencies of government that we save as many as 1,000 kids a year from dying on the highway and that is the result, even though it took a rather heavy stick to get the States to conform—and it didn't happen right away. At first States played games. They would write a law that sunset so that for two years—that was the penalty period under the 21 drinking age bill. For two years they'd raise the drinking age to 21 and then drop it back to something less than that as soon as they had gotten their full share of Federal highway money. So one night, late at night, we made it permanent, and we made the saving of life permanent at the same time.

So while we respect the States' right to make decisions on their own, we'll have to consider that in the context of the evidence that we've got.

Thank you very much for being with us. I'll excuse you now to keep your other appointment.

Mr. Box. Thank you, Senator.

Senator LAUTENBERG. I want to go now in the order of appearance as they would have been. We'll ask Doctor Maull for his testimony first. Please keep the clock in view. We'd appreciate it if you'd stay within the five minutes that we allow.

Doctor Maull.

STATEMENT OF KIMBALL I. MAULL, PROFESSOR AND CHAIRMAN, DEPARTMENT OF SURGERY, UNIVERSITY OF TENNESSEE MEDICAL CENTER

Dr. MAULL. Senator Lautenberg, my name is Kimball Maull. I'm a professor and chairman of the Department of Surgery at the University of Tennessee Medical Center in Knoxville. I am a trauma surgeon by occupation.

I would comment that I could have been included in the last panel since I was born and raised in New Jersey and lived the first 18 years of my life there.

Senator LAUTENBERG. Take as much time as you like.

Dr. MAULL. Thank you.

The University of Tennessee Medical Center is a 600-bed hospital designated by the State of Tennessee and verified by the American College of Surgeons as a Level I adult and pediatric trauma center.

In 1988, over 1,800 acutely-injured patients were admitted from Eastern Tennessee, parts of Southeast Kentucky, and from Western North Carolina. Fifty percent of the patients arrived by our University of Tennessee LIFESTAR Air Medical Service, and, for medical reasons, blood alcohol concentrations are routinely drawn on all injured patients.

The surgical staff became increasingly aware that some patients who appeared under the influence of alcohol in fact later proved to have negative blood alcohol studies. Many were subsequently shown to be under the influence of drugs.

In order to get a better assessment of the problem, a prospective study was undertaken to determine the incidence of drug use in a population of drivers injured in motor vehicle crashes. This study group does not represent an inner city population, but rather a heterogeneous patient mix of urban, suburban, and a significant rural component.

From March 1, 1988, to July 3, 1988, 201 drivers were admitted to the trauma service at the University of Tennessee Hospital. Drug alcohol concentrations were obtained on 93 percent of these patients, and urine drug screens were obtained on 82 percent. Controlled substances were found in 40 percent of the study group. Alcohol was present in 37 percent. The most frequent drugs found were marijuana in 32 percent, benzodiazepines in 12 percent, cocaine in 5 percent, opiates in 5 percent, and amphetamines and barbiturates in 3 percent.

Urine drug screens were positive for only one drug in 24 percent of the patients, and for two or more drugs in 16 percent of the patients.

The incidence of alcohol usage in this group was 37 percent. Whereas 16 percent used alcohol alone and 18 percent drugs alone, 22 percent used drugs and alcohol in combination.

Overall, then, 56 percent of the injured drivers tested positive for alcohol, drugs, or both.

This finding of a 40 percent incidence of positive urine drug screens was alarming, but not inconsistent with two recent reports, one from Maryland and one from Washington.

In the study from the Shock Trauma Center in Baltimore published in the Archives of Surgery last year, Doctor Carl Soderstrom and his colleagues found marijuana in the blood in 33 percent of 1,023 trauma victims. The breakdown of marijuana alone and marijuana in combination with alcohol was much like our own data.

The Seattle group found 40 percent incidence of drugs of abuse in their injured patient population, and their data was published this year in the Journal of Trauma.

In their series, patients who tested positive for drugs in the urine were more likely to have an elevated blood alcohol compared to the drug negative group.

These data examining the trauma population, as a whole, and our study, confined only to injured drivers, confirm an emerging drug problem in trauma patients nationwide. While the relationship between substance abuse and driver impairment is not as well studied as it is with alcohol, it is clear that patients under the influence of these mind-altering substances are subject to missed perceptions, defects in judgment, loss of inhibitions and, in fact, may be more aggressive and more dangerous than their alcohol-impaired colleagues.

In addition, our data and the data of others confirm that there likely is a high incidence of abuse of both alcohol and drugs at the same time. Further research is needed to determine the synergistic effects of marijuana, cocaine and other drugs and alcohol on thinking, reflex activity, response times, and other performance-related measures that are important in driving a motor vehicle.

Clearly the drugged driver is a major danger to all of us who use the highways and something must be done about it.

I am here to present this information to enlighten the subcommittee in terms of the medical knowledge regarding how pervasive this problem is, and I believe it is far more serious than anyone had heretofore thought.

This concludes my comments. I would be happy to answer any questions

Senator LAUTENBERG. Thank you very much, Doctor.

I'm surprised, very frankly, that the percentage of alcohol impaired compared to other substance impairment is smaller by a significant measure. Perhaps some part of that is due to the fact that we do have a law that inhibits purchase of alcohol products by anyone under age 21. I'm sure there are violations but, nevertheless, there is a law and it is supposed to be enforced. It would be very interesting to find that out.

Thank you. Please stay at the witness table for some questions.

Next we will hear from Ms. Lowe.

STATEMENT OF CARLA LOWE, CARMICHAEL, CA

Ms. LOWE. Thank you.

My name is Carla Lowe. I am here representing the other end of the country and, I guess, the other sex. I'm here speaking today in support of your bill, Senator, because I do believe that suspending the driving privilege offers a significant consequence for undesirable behavior, which is the unlawful use of alcohol and other drugs.

I'm speaking to you today as a mother of five, a former high school teacher, and a volunteer anti-drug activist for the last 13 years. In that capacity I have travelled over 350,000 miles to 35 of our own States and 11 foreign countries addressing the issue of unlawful use.

I've also sponsored four tough anti-drug laws in California as a private citizen, and I'm here to speak to one of those laws today, which is known as California's Use/Lose Law.

I first got the idea of suspending the driving privilege when it became apparent to me that our son, who was our number two child, was drinking. So father and mother got together and conferred and we came up with the Lowe Family Rule, which said that upon subjective evaluation of mother or father, if we determine any indication of alcohol you don't drive the family station wagon for six months and we take your license.

One of our children did try breaking the law. He challenged it and he lost, and he lost his license. It was effective for him. It was effective for the other children. One of them is in the back of the room.

In fact, in 1980 I spoke before a national conference and suggested that if we want to get our kids' attention we need to address the issue of tying the driving privilege with any unlawful use.

We are discussing a broader issue, and that's winning the war on drugs. In my opinion, if we are really serious about winning this war I think we need to do three things. First, I think we need to commit to the fundamental principal of no unlawful use of alcohol and other drugs. That gives us a directive in both supply reduction

efforts, demand reduction efforts, prevention, intervention, treatment, and interdiction on the national and international level.

Secondly, I think we need to do everything in our power to keep our young people from using alcohol and tobacco until they are of legal age and from ever using any other illicit drug.

The third thing I think we need to do——

Senator LAUTENBERG. You now have an interest in tobacco, as well, in taking it away from young user's hands? That's very interesting.

Ms. LOWE. The second law I did in California banned student smoking at schools and at school-sponsored activities, which was the first in the Nation. It literally wiped out the smoking areas and smoking at dances, and so forth.

The third thing I think that we need to do is to give significant or meaningful awards for desirable behavior, which obviously is lawful behavior. And then, similarly, I think we need to give a significant consequence for undesirable behavior, which is unlawful use of alcohol and other drugs.

The bill that I sponsored and which is now our Use/Lose Law took two hard years to get through the California State Legislature. The provisions are simple: anybody 13 to 21 convicted of any alcohol- or drug-related violation has a mandatory one-year suspension of the driving privilege or, if that unlicensed driver is 13, 14, or 15, he or she, upon the same conviction, needs to wait the additional year.

We also, as one gentleman suggested, allow the petitioner who has been convicted to petition the court if he can show a critical need to drive for economic, educational, or medical reasons.

Our bill had the support of our governor, our attorney general, State PTA—I had two pages of support for this bill. It quickly passed through the Senate and it was hung up, predictably, in an assembly committee which is known as the Graveyard Committee of Tough Law and Order Bills in California. It was given three hearings, which is very unusual. It died not for opposition nor debate but, simply, because we couldn't get a fourth vote. It died as a two-year bill.

Because there was such support for the bill, because I knew if I could get that bill to the floor I knew I had the votes, and because I knew that it would make such a significant difference in the lives of our kids, I decided to try what I call, as a lay person, the end run, and that was to amend into another bill on the floor.

Despite incredible and blatant maneuvering to kill this end run effort by the leader of our assembly, we were successful and, at the 11th hour, took the language from our Use/Lose Bill from the dead bill and amended into Senator Campbell's 1300. This is now known as California's Use/Lose Law.

This law has been on the book one year. There has not been a court challenge.

One of the issues that were argued during the proceedings was the issues of nexus, which is, simply: what is the connection between taking a driver's license and smoking a joint under the bridge down at the river?

The second issue that was argued was equal protection. How can we treat our young people differently than our adults?

We had answers for all of those questions, and they were satisfied with the answer.

The law is on the books. The bottom line: it is working.

We do have some problems that have come up since we put the law on the books. We will be doing clean-up legislation next year to deal with those. However, the main problem is that people are not aware of it. Our young people are not aware of the law. It is difficult to get the message out.

I suggest that a national—excuse me. It could be national with your law in place. I suggest that a Statewide campaign called "I'd rather drive"—I proposed this legislation not as a penalty but as an empowering tool for our young people empowering them to be able to say no. "I'd rather drive" is a meaningful, peer acceptable excuse. It is as good for the 14-year-old little girl with the zits all over her face as well as the 18-year-old or 19-year-old macho jock. "I'd rather drive" means something.

Our attorney general, our Department of Education, and our Office of Traffic Safety put up $150,000 for the campaign "I'd rather drive." I brought a video if any of you would like to see it—you staff people who are here. It is a wonderful, three-minute rap. It is beautifully done and has been sent to every school in our State. Along with that are two posters giving the provisions of the law and larger posters of the same information. We're making an effort.

I have written a little pamphlet that we hope will be phase II explaining not only the provisions of the law but the driver-impairing effects of alcohol and marijuana. I consider myself a lay expert on marijuana, and I was so pleased to hear your input. We've been trying to tell people for a long time that the drugged drivers, the marijuana users, are there on the roads more than the alcohol users. And there is an incredible synergistic effect of alcohol and marijuana. The marijuana high peaks out at three to four hours after the user has used, and so we're putting that impaired driver back on the road when he is at the peak of the impairing effects.

I can't encourage you enough for your legislation. Now, the problems with tying it to funds, I am not an expert on that. But I can tell you our law is working, particularly in communities where there has been a coalition of law enforcement—who, by the way, love this law. They were the very first total support I had for this bill because they said—and I think several of your witnesses have mentioned—law enforcement hasn't had any significant consequence, and now they had something. I have had wonderful testimony from law enforcement people saying this is the best thing they've ever had to use because they know this is a significant consequence in the lives of our young people.

So when you live in a community where there is a commitment from law enforcement, the schools, the media, and the judicial system to make this thing work, clearly communicate to the community the provisions and let them know you're enforcing them, it works.

I'm pleased to tell you that in my home town of Sacramento they have made such a commitment and it is working. I get calls from students who say, "Your law sucks, but it is the only thing that

makes any sense. Could I have information? I'm writing a term paper."

I have had input from law enforcement saying, "This is the best thing we have had. How can we help you expand this across the country?"

And I have had calls from parents, anonymously, saying, "My son has lost his license for a year. It is a tremendous hardship for our family, but I want you to know it is the only thing that has made any sense in the life of our son and to all of us as a family."

I commend you for your efforts, and I'd like to help you in any way.

Senator LAUTENBERG. I think maybe we ought to hear from your daughter.

Ms. LOWE. Yes. She's working as an intern in Congressman Rangel's office and she typed up my statement, which I wrote on the plane, because it was only the night before last that I knew I could come.

Senator LAUTENBERG. Your statement was excellent, and you didn't need the paper, but I've got to get the young person's response.

Ms. LOWE. I also have, just because someone asked, a copy of the States that we know of across the country that at least have the underage or some aspect of what we call California's Use/Lose law. That is here for you, plus I have some other backup information.

Senator LAUTENBERG. Thank you very much.

Ms. LOWE. Thank you.

Senator LAUTENBERG. We'd like you to stay at the table, please.

STATEMENT OF PAUL JONES, DIRECTOR, NORTH CAROLINA HIGHWAY SAFETY PROGRAM, REPRESENTING THE NATIONAL ASSOCIATION OF GOVERNORS' HIGHWAY SAFETY REPRESENTATIVES

Mr. JONES. Thank you, Senator. I appreciate the opportunity to be here.

My name is Paul Jones. I am director of the Governors' Highway Safety Program in North Carolina. I will not debate the tobacco question. I do not smoke.

I am also here appearing in the capacity as vice chairman of the National Association of Governors' Highway Safety Representatives.

You have a copy of our prepared testimony, and I will try to just touch on some of the highlights in that.

First, let me point out, Senator, that the Governors' Highway Safety Representatives hold you in the very highest regard. We are grateful that you have championed highway safety programs and highway safety and health-related programs over the years. However, I think we have a responsibility to respectfully submit some of the concerns about the sanctions that are proposed in the legislation, no matter how well intended.

I just want to say that I have to ditto Representative Box's remarks about what you are attempting to accomplish. We just want to focus more on the scope of what you are attempting to do.

We are opposed to sanctions because we believe that they are counter productive, untargeted, and, we believe, lead to inadvertent consequences.

I think when we talk about counter-productivity we have to look at what the States are trying to do today in addressing the infrastructure problem. The States need to rehabilitate their highway systems. They need to add capacity. They need to look at engineering improvements to improve on highway safety.

The sanctions in this case, we believe, are cumulative. So it is possible for a State to lose all of its apportionments or almost all of its apportionments for Federal highway programs or aid highway programs if they don't comply with the mandates that are set by Congress. I think FHWA recently concluded a study that there are something like 14 different sanctions that can be imposed on States if they do not comply to mandates that are set forth by Congress. There are two bills currently before Congress that call for sanctions, not counting Senate bill 1804.

Under the law, the Secretary of Transportation is required in eight separate cases to, if a State does not comply, withhold the money for the Interstate 4R program, secondary and primary road program. In one case, the Secretary, if sanctions are applied, is required to withhold all the money for the interstate program. The sanctions or the withholding can range anywhere from 70 up to 95 percent if the State did not comply.

The Governors' Highway Safety Representatives—NAGHSR—strongly supports incentive programs. We believe that incentives encourage a State to act and not penalize for failing to act in a desired manner. Incentives allow for a State to address national problems and priorities in a manner best suited to the individual State needs and resources. In other words, it gives them flexibility.

They also encourage the States to be innovative. I think this is the approach that you took, Senator, in last year's drunk driving legislation in the driver's license suspension law, and we hope that the same wisdom used in the development of that could be applied to S. 1804.

We are also concerned about the intent and effectiveness of S. 1804. We don't believe that it directly addresses the drugged driving problem. Anyone convicted of a drug offense, whether they are driving or not, would lose their license. And I believe there is little connection, in the policy sense, between the problem—that is, the drug offense—and the solution—in this case, the license revocation.

The license revocation aspect of S. 1804 could set a dangerous precedent for other problems unrelated to driving. I think that was addressed earlier in the Illinois Constitutional test. If you wanted to carry it to its extreme, the driver's license could be attached to someone for bouncing a check or using a false I.D.

We believe that the proposal could add to the administrative burden of overburdened State licensing agents and to enforcing agencies. I think the more laws that require suspension, the more difficult for divisions of motor vehicles to track and enforce many of the laws that they administer.

There may be other more effective ways of dealing with the problem of drugged driving. One, in particular, that comes to mind was piloted in California in the Los Angeles P.D., and that's the drug

recognition expert training program—or DRE program—which is funded by the National Highway Traffic Safety Administration and is currently being tested, I believe, in 8 States and 39 cities.

In Los Angeles the DRE program allowed for officers to be trained to recognize substance abuse beyond the drug alcohol both in the illegal and legal drug area. What it has done is give law enforcement officers another tool—a very good tool. They found that in the a couple of years that they have had the program, it has been about 90 percent effective.

The use of this DRE program has, coincidentally, caused an increase in the number of drunk driving arrests that have occurred. We believe that Congress could put more resources into the DRE program, and by putting it into the DRE program, as I said, give law enforcement people another tool to work with.

Congress could authorize an incentive program to encourage States to pass legislation aimed at alcohol and drug impaired drivers under a certain age, and I think that's already been addressed here. The program could be scoped more toward those who are in the 21 and under range because, in our market research and in research that we've done in our State, and also research that has been done around the country, the license is sacred to young people and it is the last thing in the world they want to lose.

Regardless of whatever approach is taken, we recommend that language allowing States to grant hardship waivers under certain very limited circumstances—and I believe that there may be a few genuine circumstances of hardship where someone might require ongoing medical attention or would be in some kind of a drug therapy program. That is something that we would have to be very cautious about because, as we know, that is a much abused system today where drunk driving or impaired driving is concerned.

I thank you on behalf of the Governors' Highway Safety Representatives for the opportunity to appear before you. If you have any questions, I will try to answer them.

Senator LAUTENBERG. Thank you very much.

I guess it is fair to say the consensus view lies very much with us in terms of taking the approach to the problem along the lines that we have. The question of sanctions and approach is something we are going to continue to work on here.

Once again, we found in earlier experiences with laws written at the Federal level that incentives didn't usually fully work. When we first did the 21 drinking age thing there was a protest around here that we were invading the States' rights, and so forth.

Finally I said, "Well, okay. We're not getting anywhere with this." So we took a chance on invasion that was tested in the Supreme Court by the State of South Dakota—twice, I think—and the law held and it has worked well.

So we'll deal with that, but I do appreciate your testimony and some of the information that we have gotten here today.

Doctor Maull, where did you live in New Jersey?

Dr. MAULL. I was born in Newark and lived in Union. My parents then moved to Morristown. So it was Northern New Jersey.

Senator LAUTENBERG. Kind of home territory for me.

Let me ask you this: there is no doubt, based on what we heard you say, that drugged driving is a serious problem. Do you have

any knowledge that tells you that the accident rate shown from your knowledge base, the 40 percent of the drivers injured in accidents, show traces of controlled substance? Do we quote you accurately there?

Dr. MAULL. Yes, that's accurate.

Senator LAUTENBERG. Could you guesstimate whether or not that 40 percent figure is a nationally-applicable number?

Dr. MAULL. I believe it is, Senator. I think the data from Washington and the data from Baltimore are very consistent with our own data. And there is some other data that has not been published but was presented at an international meeting in Chicago three weeks ago that suggests that the incidence may be as high as 47 percent, and that came from the State of California.

Senator LAUTENBERG. You followed this very closely. It is especially good to know that someone with your knowledge is following it with professional interest. You see the aftermath of these things, and I guess that induces your interest as a result. Do you have any estimate, in the most general terms, of the number of people killed or injured by drugged drivers each year?

Dr. MAULL. I don't really have an estimate on that. Interestingly enough, the National Highway and Traffic Safety Administration is about to embark on a study of this very thing. They are going to be looking at 2,500 drug-related deaths in their fatal accident reporting system over the next year, and they've got the cooperation of eight States, I think, to look at how pervasive this problem is in a prospective basis on people who die. Our data was just on people who are presented to the trauma center after having been injured. It is very difficult to get that information because it is not out there.

Senator LAUTENBERG. Ms. Lowe, you make a good case. Do you have any doubts that suspending the driver's license works as a deterrent to drug offenders?

Ms. LOWE. I think as a measure for prevention and early intervention it has the greatest potential of any other move that we have made.

I have always said that I don't think this is going to change the behavior of that young person—and probably this is true for an adult—who has become a drug user or is involved or is part of the real drug culture. They are living a lifestyle that is contrary to what most of us accept as normal, anyway. They are probably driving without a license, they're stealing cars, and other anti-social behavior is a part of their norm. And so I think as a prevention and intervention measure there is no doubt.

Senator LAUTENBERG. We know it is not going to cure someone.

Ms. LOWE. No. But it is extremely significant.

Senator LAUTENBERG. If we can stop it beforehand, we obviously want to do that.

Ms. LOWE. Right.

Senator LAUTENBERG. Do you think it would be helpful if the Federal law forced the issue to be considered by State officials even if it allowed those officials to reject the license suspension concept? Let me tell you what I mean.

Ms. LOWE. I think I know what you mean, but go ahead, in case I don't know.

Senator LAUTENBERG. Well, here is one of the things that is being considered: maybe as a way to waive the penalties, if the State legislatures and the Governor sign an active piece of legislation that says, "We will not engage in this program, and with full consciousness hereby enact this law that we won't abide by it," then perhaps we'll give them their money anyway because if the government officials in a given State feel that they don't want to bother with this, for whatever their reason, then we'll say, "What the hell. We'll give you the money." Do you think something like that would help?

Ms. LOWE. That's almost an——

Senator LAUTENBERG. Mr. Jones probably would be a better one to answer that.

Ms. LOWE. But let me answer. I think that the people across the country are sympathetic with this issue, and I think that people do see this as a deterrent. It is a significant consequence.

I just remember my fight to get it out of committee. I knew that if I could get it out of committee to the floor we'd have the vote because those representatives represented the majority of the thinking in the State of California. And so maybe by forcing the issue by at least having the State say, "We've looked at this and, for whatever reason, we don't want to go along with it," at least you've held them accountable and then they're going to have to respond to their own people.

Senator LAUTENBERG. I think it is important. Are you here representing the National Drug Information Center of Families in Action?

Ms. LOWE. I'm on that board.

Senator LAUTENBERG. But you are representing your own point of view at this juncture?

Ms. LOWE. Yes, I am.

Senator LAUTENBERG. I want to ask Mr. Jones: we do share a common point of view on the value of license suspension, do we not?

Mr. JONES. Yes, sir.

Senator LAUTENBERG. And we do, I assume, have a common point of view that keeping drug offenders off the roads would have a positive impact on highway safety?

Mr. JONES. No question.

Senator LAUTENBERG. So what would you suggest as an alternative to the sanctions that would work better besides the incentives? We know the incentive programs have some appeal, but they don't get 50 States involved. Can you think of any other way we can get 50 States involved? Would you believe that we could get 50 States involved through incentive programs?

Mr. JONES. I think that 50 States are probably going to be involved in the type of legislation that you're talking about without any mandate from Congress. I think societal pressure is at a point—I don't think it has reached a peak yet, but I think societal pressure at the State and local level is at a point where, at the State level, the driver's license suspension for the under-21 user is almost a natural because of the driving conditions that exist now. In many States licenses are suspended for under-21-year-old drivers where there is any kind of alcohol involvement. In some States—I

believe 19 States now have laws whereby if the drivers are caught with drugs in their possession or using drugs there is a license suspension that follows.

I think we are almost at a point where States—and I have to use North Carolina as an experience—come up with recommendations to take to the next legislature, recommendations such as sanctioning or taking the driver's license or suspending the driver's license up to age 21 for those individuals who are caught with drugs. Beyond that, I don't have an answer for the question.

But I think States are going to fall in line because there is a "me too" attitude that we're going to do something about the drug problem.

Senator LAUTENBERG. But I wonder, Doctor Maull, whether you've seen any youngsters, part of a group where one of them—a friend, a companion, a relative—may have been injured in a drug or drunk driving accident and not too long after have seen another member of a group—the community or the family—come in with the same problem?

The point I make here is that if we wait long enough for societal pressures—to use your expression—to make things happen, very often it is after the funeral has been held or after the injury has taken place. Do you have any comments to make on that, Doctor Maull?

Dr. MAULL. I'm sure it happens, Senator. I can't cite you an example off the top of my head, but I'm sure it does happen.

One of the interesting things that Mr. Jones brought up earlier was in relationship to the issue that if the drug offense is not related to transportation, then why is the sanction based on the driver's license.

I'd like to just make you aware of a pilot study that we looked at in 1985, not in looking at drugs, but in looking at alcohol and looking at people who were injured not in vehicular crashes but from trauma of other sorts totally unrelated to the highway.

We took two identical groups of patients and we found that in one group they had an elevated blood alcohol level of .18 in the average, and the other group had no alcohol on board at all when they were injured. And then we tracked their driving record. Now, remember, these people are not injured related to vehicular trauma at all. It is something totally different.

We went back to their driving record and we found that three quarters of the people who were drunk when they were injured from non-vehicular causes had a previous citation for drunk driving, and none in the control group.

I think that the situation of drugs may be very analogous to that in that if you have someone who is injured—let's say assaulted or injured in a fall, or something like that—and they are under the influence of marijuana or cocaine or something like that, what's to say that the next time that they're injured they are not going to be injured in a vehicular crash causally related to the use of marijuana or cocaine?

So I think the issue is probably analogous. The problem is that we are just recognizing that it is a major problem. We don't have a lot of data yet.

Senator LAUTENBERG. The States often have abundant problems to focus on and just put things off. Here Ms. Lowe talks about having to force it in an end run. We'll probably have to do an end run here in many cases to get this law on the books. That's what I'm concerned about. How much do you think it might take in incentive grants? Do you have any idea what the total highway program is? What do you think it would take in incentive grants to get a State to pick up and do this in prompt fashion?

Mr. JONES. Senator, I wouldn't know how to measure that. I don't have an answer for it.

Ms. LOWE. Senator, I just wanted to make one comment picking up on your last point. I think sometimes we forget that there are more young people who are dying of drug/alcohol related causes—accidents, falls, suicide, homicide—there are more deaths from accidents off the highway than on the highway.

One of the points that I made as I was pushing for my legislation is that for too long we've just concentrated our efforts on one ramification of the alcohol and other drug user, and that's what they might do when they get behind the wheel of a car because then they might directly hit me or one of my loved ones.

This has been almost a smoke screen which has then forced our attention away from the fact that alcohol and other drugs are impacting the high school drop out rate—I'm a teacher, so this is very important to me—teenage homicide, teenage suicide, teenage pregnancy. And then, if you really want to get down to the nitty gritty, we could start talking about AIDS right here because we know that sure fire way to prevent that is to stop use before it starts.

So the impact on the highway and the fatalities are not the only issue.

Senator LAUTENBERG. Of course. It is only one part of it.

Mr. Jones, did you suggest that we'd be setting a dangerous precedent that might be an infringement on privacy of individuals? Does sending someone to jail infringe on the privacy right of an individual? If they are convicted of an offense that might cause injury or damage to others, we have a right to get these people off the roads and out of the mainstream. We can't control social behavior in the schools, necessarily, but we can at least encourage people not to use drugs.

I was the architect of the law to take smoking out of airplanes. Since then, people have said to me, "Gee, you're unfair. You're not giving the smokers' rights a chance." Well, I am. I'm not telling people they can't smoke. I'm simply saying that you can't smoke on my lungs and that if you want to drink you can't drink on my highway because I don't want to see my family or anybody else's family victimized by the habits of someone else. As a consequence, I think we just have to get on with this.

What I'm searching for here is how we get something done by holding out incentives when, in fact, the problem has been with us a long time now and not enough States have moved on it yet. The alcohol thing was a problem for a long time, but States didn't take up the incentives and say, "Okay, it's about time we got rid of this." It was when Uncle Sam held up a big stick and said, "By God you're going to save your own kids' lives or we're going to take away your money if you don't do it." Finally they did it. We had

some places that said, "We'd rather get the revenues from the taverns and the cafes and take a chance on giving up our highway money." Well, some did it for a while, but then social pressures took over.

Mr. JONES. If I might?

Senator LAUTENBERG. Sure.

Mr. JONES. I think that when we look at the alcohol as a drug versus the illicit drug experience we should recognize that the illegal drug problem—we have reached a crisis stage. It is a matter which all of society wants to address now.

Illegal drugs do not have a constituency that is willing to stand up and be counted, if you will. On the other side of the issue, alcohol is still the drug of choice. Alcohol does have a constituency. It is socially acceptable to use that drug, and until the policy makers stop taking this drug for granted, I don't think we're going to make a whole lot of advances in this area.

The policy makers don't take the illegal drug problem for granted. I may be idealistic, but I really believe that within the next year most of the States, because of a ripple effect that will start occurring as States start passing more of these types of laws to revoke the license, are going to fall into the line.

Senator LAUTENBERG. You might be right. I'm not willing to take that chance. I'm here with some measure of control over highway funds. I'm chairman of the Transportation Subcommittee on Appropriations, as well as a senior member of this committee. I have to use it to help people, even sometimes if they don't understand that they can help themselves. That's why we put traffic lights out there. We do have to say that for the good of the whole, some of the parts may have to behave differently than they'd like.

Thank you all for being here. We will take the opportunity to submit questions and ask for your quick response in writing.

Thank you very much.

[Whereupon, at 4:30 p.m. the subcommittee was adjourned, to reconvene at the call of the Chair.]

[Statements submitted for the record, the bill, S. 1804, and an analysis of S. 1804 follow:]

CONGRESSMAN GERALD B. SOLOMON
BEFORE THE
WATER RESOURCES, TRANSPORTATION,
AN INFRASTRUCTURE SUBCOMMITTEE
OF THE SENATE COMMITTEE
ON ENVIRONMENT AND
PUBLIC WORKS

11/14/89

406 DIRKSEN SENATE OFFICE BUILDING

MR. CHAIRMAN,

Thank you for allowing me to testify before you today on a matter of great importance.

I introduced this legislation in the House earlier this year because I truly believe it is the most effective method to address the serious problem of casual drug use in our country.

Currently, up to 75 percent of the money which finances the illegal drug trade in this country comes from casual drug use.

Yes, we should do everything possible to interdict drugs coming into this country. Yes, we should provide adequate funds to treat addicts, and yes, we should jail and in some cases execute those involved in the sale of drugs in this country.

These so-called remedies to the war on drugs are helpful and they must continue,... But let's not kid ourselves, they are not enough. They are not the solution because they don't get to the root of the problem.

Our Coast Guard and now our military are heavily involved in interdicting illegal drugs. We're spending billions and billions of tax dollars to treat and rehabilitate addicts and to educate the public. And we're jailing drug pushers by the tens of thousands.

But let's face reality. We could jail every drug pusher and drug lord in the world today and new ones would pop-up tomorrow because of the enormous profits involved in this deadly trade. There is only one real solution and that is to eliminate the market by eliminating demand.

The bill I introduced in August (HR 3051) is targeted at the casual drug user. My bill would reduce Federal highway funds by 2 percent annually to states that fail to suspend the drivers' licenses of persons convicted of drug offenses. Convicted drug users under the minimun age for license applications would find that minimum age moved back another six months.

This approach would send a meaningful message to the youth in our country...at the time of their life when they are the most impressionable and the most susceptible to peer pressure to try drugs. They are also yearning for that great rite of passage into adulthood.....the drivers' license.

I am a great believer in conditioning benefits to responsibilities... 8 years ago the Congress approved and the Supreme Court upheld my amendment conditioning the responsibility to register with selective service to the right to receive higher education benefits.

Conditioning the right to receive a drivers' license to the responsibility to remain drug-free will prove just as successful in winning the war on drugs.

The New Jersey Division of Motor Vehicles suspended the licenses of more than 9,500 drug offenders under their state law last year and Oregon also has a successful law. The time has come to extend this law nationwide.

Money and rhetoric are not going to win the war on drugs. Casual drug users are going to continue to finance the drug trade in this country as long as they believe they can go unpunished. Taking away drivers' licenses in an automobile-oriented society will show that we're serious. And as for drug lords and drug pushers - remember, no one can stay in business when they lose their customers.

THOMAS D. LARSON
FEDERAL HIGHWAY ADMINISTRATOR
U. S. DEPARTMENT OF TRANSPORTATION
BEFORE THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
SUBCOMMITTEE ON WATER RESOURCES, TRANSPORTATION, AND INFRASTRUCTURE

U.S. SENATE

REGARDING S. 1804
"DRUG OFFENDER'S DRIVING PRIVILEGES SUSPENSION ACT OF 1989"

NOVEMBER 15, 1989

Mr. Chairman and members of the Committee, I am pleased to have this opportunity to meet with you today to provide the views of the Federal Highway Administration (FHWA) on an important legislative proposal currently under your consideration. With me today is George Reagle, Associate Administrator for Traffic Safety Programs, National Highway Traffic Safety Administration.

S. 1804 would encourage the revocation or suspension of the driver's license of any person convicted of a drug offense by requiring the States to enact such laws or face withholding of Federal-aid highway funds. The FHWA supports the goals of this proposed bill. Currently, nearly half of the States have laws for suspending or revoking a person's privilege to operate a motor vehicle upon conviction for a drug offense. Most of these laws are limited to younger drivers and many are discretionary, but they indicate a strong interest among the States to enact such measures. The violence and lawlessness associated with drug abuse justify the adoption of strong enforcement measures as outlined in the President's national drug control strategy. The Administration supports initiatives which would reduce drug abuse.

Regarding the specific proposals contained in S. 1804 including Federal highway sanctions, I believe this Committee should defer action on this bill. This will provide an opportunity to carefully consider the legal ramifications of such laws and to evaluate the experience of the States in revoking and suspending licenses for drug offenses. Earlier this year the Supreme Court of Illinois found unconstitutional a State statute which would also require license revocation upon a criminal conviction. The court held that there was a lack of connection between the offense and the operation of a motor vehicle. Implementation of such legislation may pose practical problems for some States. We understand that some States have encountered difficulties in tracking down drivers to obtain their suspended driver's licenses, particularly in large urban areas.

In the meantime the Department is aggressively implementing other drug initiatives. Over the past several years, the Department of Transportation has been a leader in establishing appropriate substance abuse programs for its own employees and employees in transportation industries subject to DOT regulations where justified by safety or security needs. In September 1987, the Department commenced a comprehensive drug testing program for its civilian employees, including random testing of over 30,000 employees in safety or security-sensitive positions. In November 1988, the Department announced rules requiring drug testing of transportation workers in safety or security related jobs, including approximately 3 million truck drivers, bus drivers, and

drivers hauling hazardous materials. The rule affecting motor carriers with 50 or more drivers goes into effect on December 21, 1989, except for random and post-accident testing which are under a court injunction. Smaller carriers must begin testing in December 1990.

Under the Commercial Driver's License Program, drivers will be disqualified from operating commercial motor vehicles for a minimum of 1 year for driving a commercial motor vehicle under the influence of drugs and/or alcohol. Upon a second such conviction the driver faces a lifetime disqualification. Any person who operates a commercial vehicle in the commission of a felony involving the illegal manufacture, distribution, or dispensing of a controlled substance or possession with the intent to distribute will be disqualified for life.

In summary, while we support the goals of the proposed legislation we believe that more time is needed to consider the many issues involved.

This concludes my prepared statement. I would be pleased to answer any questions.

# # # #

TESTIMONY OF NEW JERSEY ATTORNEY GENERAL PETER N. PERRETTI, JR. BEFORE THE SENATE SUBCOMMITTEE ON WATER RESOURCES, TRANSPORTATION AND INFRASTRUCTURE CONCERNING THE "DRUG OFFENDER'S DRIVING PRIVILEGES SUSPENSION ACT"

November 15, 1989

I very much appreciate this opportunity to testify before this subcommittee with regard to the "Drug Offender's Driving Privileges Suspension Act." As you know, New Jersey was the first state in the nation to mandate the revocation or postponement of driving privileges of every person convicted of a drug offense. We are aggressively enforcing that law and we are convinced that it is beginning to have an impact. We believe that every state should therefore consider adopting similar legislation.

At the outset, let me say that there is little need for me to describe to this subcommittee the nature and scope of this country's current drug crisis. The President's National Drug Control Strategy quite appropriately refers to the problem as an epidemic. As with all epidemics, finding a cure depends in large measure on our ability to identify and isolate the "carriers" of this sordid disease. I believe that those persons who we used to refer to as "casual" or "recreational" drug users are among today's drug carriers. These users provide the billions of dollars which fuel the illicit drug trafficking networks which have proliferated across the country and which have turned many of our neighborhoods, especially in our urban centers, into veritable combat zones where the rule of law, essential to our civilized existence, no longer prevails on a day to day basis.

These users, in other words, are largely responsible for the rampant, mindless violence and misery associated with our nation's illicit drug trade. They are morally responsible for their substantial contribution to our current crisis, and it is government's obligation to find a way to transform these

offenders' moral responsibility into legal accountability. We therefore need to examine innovative and cost-effective forms of punishment to make certain that these users are held accountable for their antisocial behavior.

We know today that we can no longer rely exclusively on imprisonment as the answer to our drug enforcement problem. In New Jersey, by way of example, our correctional system, despite a massive capital construction program undertaken during the course of the last 8 years, is already operating at 116 percent of capacity. The problem of overcrowding is dramatically more acute in our county jails, where less serious offenders are likely to be housed. The point is simply that we cannot afford to imprison every drug offender who we apprehend, much less every drug offender who is actually subject to arrest and conviction. Thus, while incarceration of certain drug offenders must continue to be a vital part of our overall drug control strategy, we are forced by circumstances to consider other forms of punishment to deal with the enormous population of illicit drug users.

In saying this, I recognize that law enforcement, by itself, is most certainly not the answer to America's drug problem, and no law enforcement official in New Jersey is suggesting otherwise. Even so, we are convinced that the law enforcement community can play a key role and make a positive contribution to a multidisciplinary effort, not only by helping to cut off the supply of drugs, but even more importantly, by helping to reduce the <u>demand</u> for illicit drugs as well. This can be accomplished through the time-honored notion of deterrence, which is, quite

literally, a form of prevention. The key, of course, is to have laws that are realistically enforceable, that is, laws that are tough enough to be worth enforcing, but not so tough that we lack either the means or the societal will to enforce them. This requires a delicate balance and a willingness to embrace new approaches. By adopting and implementing innovative, tough, yet realistically enforceable drug laws, I am convinced that our criminal and juvenile justice systems can help to discourage persons from purchasing and using illicit drugs.

In New Jersey and throughout the country, a similar strategy has already been used in recent years to address the problem of drunk driving. Through a combination of tough drunk driving laws and zealous enforcement, we have been able to change widespread public attitudes about drunk driving. All would now agree that drunk driving is a serious offense -- one which carries with it stern, mandatory punishment. As a result of these tough new laws and zealous enforcement efforts, new words, such as "designated driver," have found their way into our common vocabulary. This is a sure sign that, although we have obviously not solved the drunk driving problem, we have at least made an impact in changing peoples attitudes and, ultimately, their patterns of behavior. Our drunk driving enforcement experience is a hopeful sign and proof that law enforcement does have a significant role to play in reducing the demand for drugs by holding drug users accountable.

Indeed, we in New Jersey were convinced that we could make similar progress in attacking the drug problem. After all, our last survey of high school students in New Jersey revealed that 7

out of 10 reported that the fear of "getting into trouble with the law" would actually prevent their use of illicit drugs. New Jersey High School Survey at p.91, Table 20. This emerged as a key preventive factor and we recognized that it was our responsibility as a caring and compassionate government to take full advantage of it. Indeed, with all due respect to those who have recently advocated the legalization of controlled dangerous substances, it is simply inhumane to tolerate this form of inherently self-destructive behavior.

Largely in response to the cocaine epidemic during the summer of 1986, the New Jersey Legislature unanimously adopted the Comprehensive Drug Reform Act. That Act is widely viewed as one of the toughest, most sweeping state drug laws in the nation. The Comprehensive Drug Reform Act includes a host of features which, working in tandem, are designed to address every facet of the problem by assuring stern, appropriate punishment for all drug offenders, ranging from the highest ranking drug kingpin all the way down to the first-time drug user. Although our focus at this hearing is on the revocation and postponement of driving privileges, it is important that you recognize that this is but one component within our panoply of provisions which, working together, are designed to impact the drug problem.

New Jersey's drug law flatly provides that any adult convicted of any drug offense, or any juvenile adjudicated delinquent for any drug offense, must automatically forfeit their privilege to operate a motor vehicle for at least six months. The sentencing court may extend this suspension of driving privileges

for up to 2 years, but the court must at a minimum suspend the offender's driving privileges for at least 6 months.

Furthermore, to maximize the deterrent effect, and to further evidence our resolve to hold all drug offenders accountable for their actions, it does not matter under New Jersey law whether an automobile was in any way involved in the underlying drug offense. In other words, a person arrested and convicted for simple possession or use of illicit drugs, even in his or her own home, is subject to the mandatory, automatic loss of driving privileges.

Finally, New Jersey law provides that if the offender is less than 17 years of age at the time of his or her adjudication of delinquency, (which is the minimum driving age in New Jersey), the six-month mandatory loss of driving privileges waits until the offender turns 17, and would otherwise have been eligible to apply for driver's license. The punishment, in other words, becomes a postponement, rather than revocation of driving privileges.

Our visits to high schools across New Jersey confirm that this particular feature does indeed get the attention of young audiences, which is exactly what it is designed to do. As you will no doubt recall from your own personal experience, the privilege to operate a motor vehicle is especially important to adolescents. Many teenagers look forward to obtaining their driver's permit or license with great anticipation. Obtaining a license is viewed as the mark of approaching adulthood and an important rite of passage which affords young people access to social freedom. By putting that precious privilege at serious risk, we hope to make young people, who must be at the focus of

our long-range drug enforcement strategy, think twice about first using or continuing to use illicit drugs. Even those who do choose to use drugs will, under New Jersey's law, be forced to be more cautious and far less likely to flaunt their criminal activity or to use drugs out in the open. We believe that it is a vital, realistic enforcement goal to eliminate open and notorious drug use. This is a key part of our overall strategy to convince a generation of young people that buying and using drugs is not "cool," mature or even remotely acceptable behavior, but rather is a dirty, risky and secretive business.

According to a recent Gallop opinion poll, a clear majority of teenagers reported that the loss of driving privileges would prove to be a "very effective" deterrent. See attached Gallup press brifing at p.23. This statistic, in my view, is reason enough to adopt this approach. Just as importantly, this new risk posed by New Jersey's new law provides students who are already inclined to say no to drugs with an additional reason -- an "excuse" if you will -- to resist peer pressure. Many students in New Jersey can now be heard to respond to their peer group carriers: "no thanks, I don't want to lose my driver's license." This represents an extremely important, yet subtle form of deterrence. I believe that it is vital that we in government provide young people with every possible reason to abstain from drug use.

At present, my department is conducting a survey of New Jersey high school students. This survey is administered every three years and is designed to show not only changing patterns of

drug use among young people, but also to document new trends in students' attitudes about drugs. In light of the new law, we have added a new question to the survey instrument which is designed to determine whether the loss of driving privileges actually influences a student's decision to use drugs. I will be more than happy to share the results of that survey with this subcommittee as soon as those results are available.

Our law was designed to make the revocation of driving privileges as administratively simple as possible. By its terms, our law requires that the judge at sentencing literally take physical custody of the defendant's driver's license, which is then sent to our Division of Motor Vehicles -- a division within my own Department of Law and Public Safety.

In 1988, as a result of this law, the Division of Motor Vehicles suspended the driving privileges of 9,600 persons who were convicted of a drug offense. In the first 8 months of 1989, moreover, we have revoked the driving privileges of an additional 13,150 convicted drug offenders. These statistics should confirm to any skeptics that we are indeed serious and that we are firmly committed to aggressively enforcing this new law and to holding drug users accountable.

I also encourage other states which adopt similar laws to develop in advance computerized statistical information gathering systems and procedures to determine not only how many licenses have been suspended, but also to determine how many persons have had their privileges postponed, the median length of suspension and how many persons are subsequently charged with driving on the

revoked list. In this way, other states can learn from New Jersey's experience and be able without great effort to ascertain the impact of their new law.

As I noted above, the revocation or postponement of driving privileges is but one of several innovative features in our comprehensive drug law which are designed especially for drug users, and I would be more than happy at your convenience to discuss other aspects of the Comprehensive Drug Reform Act and our overall drug enforcement strategy. I believe, however, that, even considered in isolation from other sanctions and remedies, the taking of driving privileges is an effective tool.

For all of these reasons, I believe that every state in the country should follow New Jersey's lead in taking the driving privileges of drug offenders. I should also point out that this cost-effective sanction is a key recommendation of the Nationwide Blueprint for State and Local Drug Control Strategies. See especially Blueprint at p.16. That Blueprint, which includes an entire chapter outlining recommended state drug laws, has already been endorsed by a remarkably wide range of professional law enforcement and prosecution interests, including the National Association of Attorneys General, the National District Attorneys Association, the International Association of Chiefs of Police, the International Narcotic Enforcement Officers Association, the National Criminal Justice Association and the National Sheriffs Association.

Finally, I am mindful that the bill before this subcommittee would encourage states to adopt driver's license suspension

legislation by threatening to withhold a percentage of highway funding from those states which, after a time, fail to adopt such legislation. Needless to say, the very notion of withholding federal funding in such a fashion is a controversial and sensitive subject to state and local officials. Our federal system survives and thrives precisely because our states are, in effect, in a partnership with each other and with the federal government. This federalist model presupposes that sovereign state legislatures are free not only to tailor their laws to meet local needs, but are free and indeed encouraged to experiment with new remedies and approaches to solve society's most pressing problems. Indeed, it is exactly this flexible approach which has permitted New Jersey to pioneer the concept of suspending or postponing the driving privileges of convicted drug offenders.

Clearly, there is no single answer to the nation's drug problem; no single law, however well intended or aggressively enforced, will rid our nation of this epidemic. It would be disingenuous for me, moreover, as the chief law enforcement officer of a state already in compliance with the terms of S-1804, to take a position with respect to the withholding of funds from other states which have yet to adopt driver's license suspension legislation.

Obviously, there are a number of competing interests involved -- both practical and philosophical. It is my judgment, however, that every state must thoroughly consider the approach pioneered by New Jersey. Clearly, the law enforcement community's role in drug enforcement depends largely on the existence of effective

state and local laws. More than 94 percent of all drug arrests made throughout the United States are the result of state, county and local -- not federal -- law enforcement efforts. This percentage is even greater with respect to the apprehension and prosecution of drug users and street level offenders, who are most likely to feel the impact of driver's license revocation legislation. In light of these compelling statistics, each state legislature must entrust its own law enforcement agencies with the tools needed to wage an aggressive, realistic and cost-effective war on drugs.

The recent Gallop report shows that an overwhelming majority of Americans, nearly 80 percent, favor legislation to take away the driver's licenses of drug users. Gallup press briefing at p.22. As I have already noted, many of the most respected national law enforcement and prosecution organizations have already endorsed this approach. The taking of drug offender's driving privileges is simply the right thing to do. For this reason, I urge each state to take those steps which are necessary to make its own drug laws effective, so that we in law enforcement at the state and local levels of government can do our job to help preserve some semblance of order and civility until such time as we, as a civilized people, can teach the next generation the values which they will need to resist the deadly menace of substance abuse.

If there is anything that I or any member of my department can do to assist this subcommittee in promoting or evaluating the effectiveness of this approach, please do not hesitate to let me know.

26-373 0 - 90 - 3

REFERENCES

1. New Jersey Drug Offender's Driving Privileges Suspension law (N.J.S.A. 2C:35-16) (copy attached).

2. Gallup International Foundation, press briefing on the Attitudes of American Adults and Teen-agers Towards the Drug Crisis and Drug Policy, August 4, 1989 (copy of pp.18-23 attached).

3. Toward a Drug-Free America: A Nationwide Blueprint for State and Local Drug Control Strategies (copy of pp.13-19 attached).

4. Drug and Alcohol Use Among New Jersey High School Students 1987 (copy of pp.87-91 attached).

2C:35–16. Mandatory forfeiture or postponement of driving privileges

In addition to any disposition authorized by this title, the provisions of section 24 of P.L.1982, c. 77 (C. 2A:4A–43), or any other statute indicating the dispositions that can be ordered for an adjudication of delinquency, and notwithstanding the provisions of subsection c. of N.J.S. 2C:43–2 every person convicted of or adjudicated delinquent for a violation of any offense defined in this chapter or chapter 36 of this title shall forthwith forfeit his right to operate a motor vehicle over the highways of this State for a period to be fixed by the court at not less than six months or more than two years~~, or, after the expiration of six months, until the privilege shall be restored to him in the discretion of the Director of the Division of Motor Vehicles upon application to and after certification by a physician to the director that the person is not a drug dependent person within the meaning of this chapter~~ which shall commence on the day the sentence is imposed. In the case of any person who at the time of the imposition of sentence is less than 17 years of age, the period of the suspension of driving privileges authorized herein ~~shall not commence to run until the defendant reaches the age of 17~~, including a suspension of the privilege of operating a motorized bicycle, shall commence on the day the sentence is imposed and shall run for a period as fixed by the court of not less than six months or more than two years after the day the person reaches the age of 17 years. If the driving privilege of any person is under revocation, suspension, or postponement for a violation of any provision of this title or Title 39 of the Revised Statutes at the time of any conviction or adjudication of delinquency for a violation of any offense defined in this chapter or chapter 36 of this title, the revocation, suspension, or postponement period imposed herein shall commence as of the date of termination of the existing revocation, suspension, or postponement.

The court before whom any person is convicted of or adjudicated delinquent for a violation of any offense defined in this chapter or chapter 36 of this title shall ~~cause a report of the conviction or adjudication to be filed with the Director of the Division of Motor Vehicles~~ collect forthwith the New Jersey driver's license or licenses of the person and forward such license or licenses to the Director of the Division of Motor Vehicles along with a report indicating the first and last day of the suspension or postponement period imposed by the court pursuant to this section. If the court is for any reason unable to collect the license or licenses of the person, the court shall cause a report of the conviction or adjudication of delinquency to be filed with the Director. That report shall include the complete name, address, date of birth, eye color, and sex of the person and shall indicate the first and last day of the suspension or postponement period imposed by the court pursuant to this section. The court shall inform the person orally and in writing that if the person is convicted of personally operating a motor vehicle during the period of license suspension or postponement imposed pursuant to this section, the person shall, upon conviction, be subject to the penalties set forth in R.S. 39:3–40. A person shall be required to acknowledge receipt of the written notice in writing. Failure to receive a written notice or failure to acknowledge in writing the receipt of a written notice shall not be a defense to a subsequent charge of a violation of R.S. 39:3–40. If the person is the holder of a driver's license from another jurisdiction, the court shall not collect the license but shall notify forthwith the Director who shall notify the appropriate officials in the licensing jurisdiction. The court shall, however, in accordance with the provisions of this section, revoke the person's non-resident driving privilege in this State.

In addition to any other condition imposed, a court may in its discretion suspend, revoke or postpone in accordance with the provisions of this section the driving privileges of a person admitted to supervisory treatment under N.J.S. 2C:36A–1 or N.J.S. 2C:43–12 without a plea of guilty or finding of guilt.

L.1987, c. 106, § 1, operative July 9, 1987. Amended by L.1988, c. 44, § 7, eff. June 28, 1988.

SURVEYS OF THE ATTITUDES OF AMERICAN ADULTS AND TEEN-AGERS TOWARDS THE DRUG CRISIS AND DRUG POLICY

A press briefing presented as background to
the remarks of George Gallup, Jr.

Old Executive Office Building
August 14, 1989 10:00 a.m.

August 4, 1989

THE GEORGE H. GALLUP INTERNATIONAL FOUNDATION
100 Palmer Square
Princeton, New Jersey 08542

Contact: Robert Bezilla (609) 924-7772

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The U.S. public overwhelmingly favors action on many fronts.

Interdiction, tougher laws, education, rehabilitation all receive the full endorsement of majorities of the public.

RATING OF DRUG POLICY OPTIONS

The Question: *Please tell me how important you think each of the following ideas is as a way to halt the drug epidemic in the U.S.: very important, fairly important, not too important, or not at all important.*

	Adults	Teens
	%	%
Educating young people and other non-users about the dangers of drug abuse		
Very important	92	85
Somewhat important	6	13
Not too important	1	1
Not at all important	1	1

RATING OF DRUG POLICY OPTIONS – Continued

	Adults %	Teens %
Making it harder for illegal drugs to get into the country		
Very important	90	89
Somewhat important	7	9
Not too important	1	2
Not at all important	1	*
No opinion	1	--
Tougher laws against users of drugs		
Very important	77	80
Somewhat important	13	15
Not too important	6	4
Not at all important	3	1
No opinion	1	--

* Less than one-half of 1 percent.

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RATING OF DRUG CONTROL POLICY OPTIONS – Continued

	Adults %	Teens %
Tougher laws against sellers of drugs		
Very important	92	88
Somewhat important	5	10
Not too important	1	2
Not at all important	1	*
No opinion	1	--
Helping users to obtain treatment		
Very important	67	72
Somewhat important	24	23
Not too important	4	4
Not at all important	4	1
No opinion	1	--
Number of respondents	(1005)	(500)

Among teens who feel it is important to help users to obtain treatment, 88% would also favor having a drug treatment center in their own neighborhood.

The public shows high awareness of drug testing programs. Those aware of the programs–both adults and teen-agers–endorse periodic testing of individuals from all walks of life; particularly those in positions of public trust.

DRUG SCREENING

The Question: *Have you heard or read about drug-screening programs; that is, periodical testing of individuals to whether they may be using drugs? For each of the following categories of individuals, please tell me if you think it would be a good idea or a bad idea if they were required to take periodic drug screening tests.*

	Adults	Teens
	%	%
Aware of drug screening program	82	74
Consider good idea for:*		
Airline pilots	95	98
Police	94	97
Physicians	90	96
Public officials	86	94
Professional athletes	83	93
High school teachers	82	84
High school students	68	80
Professional entertainers	61	76
The average worker	n.a.	72
Number of respondents	(1005)	(500)

* Based on those aware of drug screening

n.a. = not asked of this group.

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The public – both adults and teens – leans heavily in favor of specific steps for dealing with the users of illegal drugs.

FAVORED MEASURES FOR DRUG USERS

The Question: *For each of the following steps for dealing with users of illegal drugs, please tell me if you strongly favor, favor, oppose, or strongly oppose the measure?*

	Adults %	Teens %
Require a course in drug education	94	91
Require mandatory drug treatment	92	n.a.
Require them to perform community service	88	82
Inform people of authority	84	n.a.
Inform police	n.a.	84
Inform teachers or school officials	n.a.	79
Take away driver's license	78	78
Inform employers	n.a.	76
Require them to spend a week in jail	71	73
Publish their names in newspaper	67	41
Confiscate their cars	62	70
Number of respondents	(1005)	(500)

n.a. = not asked of this group

Adults see tougher laws and school policies as the most effect deterrents to drug use. Teens favor hearing their peers give their "stories" and the threat of loss of driving privileges for those who abuse drugs.

ACTIONS CONSIDERED TO BE VERY EFFECTIVE DETERRENTS

The Question: *Based on what you, yourself, personally think, how effective would each of the following be as a way to keep young people [your fellow students] from trying or using drugs: very effective, somewhat effective, not very effective, or not at all effective?*

	Adults %	Teens %
Tougher laws against those who sell drugs	83	n.a.
Tougher laws against drug users	70	n.a.
An anonymous "hot line" for self or others	64	49
Tough school policy/tough rules	64	37
People/young people giving their "stories"	55	65
People reporting those who are using drugs	52	35
Stressing health problems	52	32
Telling students they will not get their driver's licenses	49	57
Teachers intervening if they sense a problem	48	23

Continued...

DRUG AND ALCOHOL USE AMONG NEW JERSEY HIGH SCHOOL STUDENTS 1987

LAPS New Jersey Department of Law & Public Safety

FACTORS PREVENTING SUBSTANCE USE

All students were asked to respond to a series of questions designed to identify persons, values, or fears which might prevent them from using marijuana or other illicit drugs. They were also asked to respond to a similar series of questions regarding factors which might prevent them from using alcohol. Inasmuch as prevention is deemed to be of primary importance in efforts to deal with substance abuse, it was felt that the survey should attempt to elicit basic information regarding the attitudes of students in this area. It is recognized that information of this type is needed in order to maximize the utility of efforts directed toward the prevention of substance abuse.

Table

. For both alcohol and drugs, the students generally attached the same relative importance to the preventive factors mentioned in the survey questions. Fear of physical harm was by far the most important, followed by fear of getting into trouble with the law. 20

Marijuana/Drugs

. Fear of physical harm was clearly reported as the most intensive preventive consideration, with four of every five students (78.7%) reporting it would prevent them from using marijuana or other drugs. 20

Table

- Seven of every ten students (69.6%) report that fear of getting into trouble with the law would prevent their use of drugs, while about six of every ten (58.4%) indicate that parental disapproval would prevent their use of drugs. 20

- About one-half of the students indicate that disapproval of friends (51.0%) or fear of bad grades (49.6%) would prevent their use of marijuana or drugs. Three of every ten (31.6%) report that religious values would have a similar effect. 20

- Only one in every eight students (12.2%) reports that nothing would prevent his use of drugs or marijuana. 20

Trends, Marijuana/Drugs

- With the exception of peer disapproval moving slightly ahead of fear of bad grades in 1986, the relative importance of the factors listed have remained the same through all three surveys. 20

	Table
. No significant change in the influence of all six preventive factors is observed in the 1986 survey.	20
. Peer disapproval continued to register the most pronounced increase as a preventive factor. In 1980, 39.0% of the students reported it would prevent drug use; in 1983 that proportion increased to 47.7%, and in 1986 the proportion increased to 51.0%.	20
. The number of students reporting that nothing would prevent them from using drugs has remained virtually unchanged since 1980.	20
Alcohol	
. About two-thirds of all students (64.2%) report that fear of physical harm would prevent them from using alcoholic beverages.	20
. About three in every five students (57.7%) report that fear of getting into trouble with the law would prevent their use of alcohol.	20

	Table
. Just under one-half of all students respond that parental disapproval (47.0%) or fear of bad grades (41.9%) would prevent their use of alcoholic beverages.	20
. While about one in every three students (33.5%) reports that disapproval of friends would prevent him from using alcohol, one in five (22.4%) reports that religious values would have a similar effect.	20
. About one in six students (17.4%) reports nothing would prevent his using alcohol.	20
Trends, Alcohol	
. The relative importance of the factors listed remained the same from the 1980 and 1983 surveys to the 1986 survey.	20
. Very little change is observed in the preventive influence of all six factors listed in the 1983 and 1986 surveys.	20
. As with drugs, the greatest increase in preventive influence since 1980 is observed in the peer disapproval category.	20

TABLE 20.

Trends in Factors Preventing Substance Use

(Percent)

Would prevent from using drugs or marijuana. . .	1980	1983	1986	Change 1983-1986
Fear of Physical Harm	77.1	81.3	78.7	(-2.6)
Fear Trouble w/Law	66.2	71.7	69.6	(-2.1)
Parent Disapproval	55.5	59.5	58.4	(-1.1)
Fear Bad Grades	47.1	51.7	49.6	(-2.1)
Friends Disapproval	39.0	47.7	51.0	(+3.3)
Religious Values	29.7	30.7	31.6	(+0.9)
Nothing	11.9	11.2	12.2	(+1.0)

Would prevent from using alcohol. . .	1980	1983	1986	Change 1983-1986
Fear of Physical Harm	62.8	65.9	64.2	(-1.7)
Fear Trouble w/Law	51.3	58.8	57.7	(-1.1)
Parent Disapproval	43.2	46.2	47.0	(+0.8)
Fear Bad Grades	38.9	43.0	41.9	(-1.1)
Friends Disapproval	23.8	30.3	33.5	(+3.2)
Religious Values	19.6	20.9	22.4	(+1.5)
Nothing	18.7	14.9	17.4	(+2.5)

FRATERNAL ORDER OF POLICE
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TESTIMONY OF

ROBERT ROBBINS

FOR

THE NATIONAL FRATERNAL ORDER OF POLICE

BEFORE THE

SENATE SUBCOMMITTEE ON

WATER RESOURCES, TRANSPORTATION AND INFRASTRUCTURE

ON

NOVEMBER 15, 1989

MR. CHAIRMAN, MEMBERS OF THE SUBCOMMITTEE, IT IS INDEED AN HONOR TO HAVE THE OPPORTUNITY TO APPEAR BEFORE YOU TODAY IN SUPPORT OF LEGISLATION WHICH I BELIEVE WOULD AUGMENT THE ONGOING WAR ON DRUGS NOW BEING FOUGHT ACROSS THIS COUNTRY.

MY NAMES IS ROBERT ROBBINS AND I AM A LIEUTENANT IN THE LINDENWOLD POLICE DEPARTMENT IN THE STATE OF NEW JERSEY. I AM TESTIFYING TODAY ON BEHALF OF MR. DEWEY STOKES, THE PRESIDENT OF THE NATIONAL FRATERNAL ORDER OF POLICE, AND THE 203,000 POLICE PROFESSIONALS WHO ARE MEMBERS OF OUR ORGANIZATION.

THERE ARE MANY IN WASHINGTON WHO CLAIM TO SPEAK ON BEHALF OF THE NEEDS OF THE LAW ENFORCEMENT COMMUNITY IN GENERAL -- I BELIEVE THAT THE CREDENTIALS OF THE NATIONAL FRATERNAL ORDER OF POLICE AFFORD US THE UNIQUE PERSPECTIVE OF POLICE OFFICERS DIRECTLY ON THE FRONT LINES OF THIS WAR ON DRUGS.

THE NFOP REPRESENTS THE COP ON THE STREET -- WE ARE USUALLY THE FIRST EMERGENCY RESPONSE PERSONNEL ON THE SCENE OF AN INCIDENT AND USUALLY "AT RISK." AS LAWS ARE PASSED IN WASHINGTON TO GET TOUGH ON CRIME OR TO WAGE A NEW OFFENSIVE AGAINST THE DRUG LORDS, WE ARE THE PROFESSIONALS CHARGED WITH THE RESPONSIBILITY OF IMPLEMENTING THOSE LAWS. AS YOU MIGHT EXPECT, WE TEND TO LOOK AT PROPOSED LAWS WITH A VIEW TOWARD THEIR WORKABILITY AND PRACTICAL EFFECT.

THE LEGISLATION BEFORE YOU TODAY, MR. CHAIRMAN, S. 1804, IS A BILL THAT THE NFOP STRONGLY ENDORSE BECAUSE IT TARGETS AN AREA LONG OVERLOOKED IN THE WAR ON DRUGS -- THE YOUNG AND CASUAL USER -- AND BECAUSE IT WORKS. WHILE THE SUPPLY SIDE OF THE ILLEGAL DRUG TRADE RECEIVES A LOT OF ATTENTION, CURBING THE DEMAND SIDE IS EQUALLY IMPORTANT. IN FACT, THE CONCEPT BEHIND S. 1804 HAS ALREADY BEEN ENDORSED BY FORMER-SECRETARY WILLIAM BENNETT AND HAS RECEIVED THE FAVORABLE ATTENTION OF THAT NATIONAL ASSOCIATION OF ATTORNEYS GENERAL AS WELL AS THE NATIONAL DISTRICT ATTORNEYS ASSOCIATION.

IF WE ARE SERIOUS ABOUT WAGING AN ALL-OUT WAR ON DRUGS, MR. CHAIRMAN, IT IS TIME THAT WE BECOME AS SYSTEMATIC AND TOUGH AS THE ENEMY WE SEEK TO DESTROY. WE KNOW THAT FOR ALL THE MONEY SPENT BY THE FEDERAL GOVERNMENT ON INTERDICTING ILLEGAL NARCOTICS ENTERING THIS COUNTRY, LESS THAN TEN PER CENT IS ACTUALLY STOPPED. AMERICA, UNFORTUNATELY, HAS BECOME THE NUMBER ONE CONSUMER NATION FOR ILLEGAL DRUGS. THEREFORE, AN EFFECTIVE WAR WOULD KEEP THE HEAT ON INTERDICTION EFFORTS BUT ALSO TRY TO FIND WAYS TO CURB THE APPETITE FOR DRUGS.

THE CASUAL DRUG USER PROBABLY REMAINS THE MOST FRUSTRATING EXAMPLE OF WHY THE SCOURGE OF ILLEGAL NARCOTICS IS SO INSIDIOUS. GENERALLY WELL-EDUCATED, POSSESSING A DECENT JOB, NON-ADDICTED IN AN ACUTE SENSE AND SURELY AWARE OF THE HEALTH RISKS POSED BY DRUG

USAGE, THESE INDIVIDUALS CONTINUE TO LINE THE POCKETS OF DRUG LORDS WITH AMERICAN DOLLARS. WHETHER THIS PERSON IS A MANHATTAN STOCKBROKER OR A GENERAL LABORER ON A CONSTRUCTION CREW, OR JUST A STUDENT LOOKING FOR THRILLS, THESE INDIVIDUALS ARE THE BACKBONE OF THE DRUG INDUSTRY. IF THESE CASUAL USERS CAN NOT FIND A WAY TO STOP THEMSELVES, THEN LET'S MAKE THE RISK SO GREAT THAT THE "HIGH" IS JUST NOT WORTH IT. CLEARLY, ONE WAY TO DO THAT IS TO GO AFTER POSSESSIONS OR RIGHTS WHICH OCCUPY A MORE PROMINENT PLACE IN THESE PEOPLE'S LINVES THAN DOES "GETTING HIGH."

HAVING BEEN A LAW ENFORCEMENT OFFICER FOR 22 YEARS, I KNOW THE IMPORTANCE THAT OUR TEENAGERS PLACE ON OBTAINING A DRIVERS LICENSE. TWO OF MY OWN DAUGHTERS ARE TEENAGERS AND I KNOW THEY WORRY ABOUT GETTING THEIR DRIVERS LICENSES. THE WORKING PERSON THAT IS A CASUAL USER WILL ALSO HAVE TO BE CONCERNED BECAUSE A LOSS OF DRIVING PRIVILEGES COULD ALSO MEAN A LOSS OF WORK.

THIS LAW WILL WORK. IN THE STATE OF NEW JERSEY, WHERE I WORK, OVER 9600 CONVICTED DRUG OFFENDERS HAD THEIR DRIVERS LICENSES SUSPENDED IN 1988 ALONE.

OUR PENALTIES FOR DRIVING WHILE SUSPENDED ARE SEVERE. OFFENDERS PAY A MANDATORY $500.00 FINE AND REPEAT OFFENDERS PAY FINES RANGING FROM $750.00 TO $1000.00 AND FACE MANDATORY JAIL SENTENCES.

THE NFOP WOULD TAKE THIS OPPORTUNITY TO IDENTIFY ONE ARE OF THE BILL WHICH WE FEEL WARRANTS PARTICULARLY CAREFUL CONSIDERATION BY THIS SUBCOMMITTEE DURING DELIBERATIONS -- THE PROVISION DEALING WITH THE REDUCTION OF FEDERAL HIGHWAY FUNDS TO THOSE STATES FAILING TO IMPLEMENT THE DESIRED REVOCATION STATUTES.

IN THE UNITED STATES, THERE ARE AT LEAST SEVEN STATES WHERE THEIR STATE POLICE OR HIGHWAY PATROLS ARE UNDER THE IMMEDIATE JURISDICTION OF THE STATE DEPARTMENTS OF TRANSPORTATION. THESE STATES ARE FLORIDA, NEVADA, OHIO, SOUTH CAROLINA, VIRGINIA, WISCONSIN AND WYOMING. OUR CONCERN IS THAT A REDUCTION IN THE FEDERAL HIGHWAY FUNDING TO THESE DEPARTMENTS MAY CAUSE A RIPPLE EFFECT WHEREBY BUDGET CUTS COULD BE VISITED UPON OTHER PROGRAMS WITHIN THE DEPARTMENT, INCLUDING LAW ENFORCEMENT, TO MAKE UP THE SHORTFALL. NEEDLESS TO SAY, ENACTING THIS LEGISLATION AS CURRENTLY DRAFTED ONLY TO HAVE THE EFFECT OF DEPRESSING LAW ENFORCEMENT EFFORTS AT THE STATE LEVEL WOULD BY CONTRADICTORY.

THE NFOP WOULD URGE THIS SUBCOMMITTEE, MR CHAIRMAN, TO TRY AND CRAFT A MORE CREATIVE APPROACH THAT REWARDS THOSE PARTICIPATING STATES RATHER THAT ONE WHICH PUNISHES THOSE IN NON-COMPLIANCE. THE NFOP WOULD SUGGEST THAT SINCE MANY STATE HIGHWAY PROJECTS ARE ANALYZED FOR FUNDING ON A MERIT BASIS, THAT

SOME TYPE OF BONUS OR ADDITIONAL WEIGHT BE AUTOMATICALLY ACCORDED PROJECTS IN COMPLYING STATES. IF THE FOCUS WERE TO REWARD THOSE STATES IN COMPLIANCE WITH INCREASED ACCESS TO FEDERAL HIGHWAY DOLLARS RATHER THAN AN ACROSS-THE-BOARD MEAT AXE APPROACH, PERHAPS MANY OF THE PROBLEMS ENCOUNTERED DURING THE "DRIVE 55" DEBATE COULD BE AVOIDED. AT THE VERY LEAST, AND ASSUMING THAT THE LEGISLATION REMAINS AS IS, THERE SHOULD BE SOME SAFEGUARDS BUILT INTO THE STATUTE CLEARLY PROHIBITING THE TYPE OF BUDGETARY RE-ARRANGING THE NFOP FEELS MAY TAKE PLACE.

THE NFOP, AS THE LARGEST PROFESSIONAL POLICE ORGANIZATION IN THE UNITED STATES, COMMENDS YOU, MR. CHAIRMAN, AND THE MEMBERS OF THIS SUBCOMMITTEE, FOR HOLDING THIS HEARING TODAY TO EXAMINE WHAT WE BELIEVE IS GOOD LEGISLATION. I WOULD ALSO LIKE TO COMMEND SENATOR LAUTENBERG, FROM MY OWN STATE OF NEW JERSEY, FOR INTRODUCING THIS LEGISLATION. WE STRONGLY ENCOURAGE YOUR SUPPORT FOR THE CONCEPT DRIVING S. 1804 AND TRUST THAT YOU WILL GIVE IT YOUR TIMELY CONSIDERATION.

THANK YOU, MR. CHAIRMAN, VERY MUCH FOR THE OPPORTUNITY TO APPEAR BEFORE YOU TODAY. I WOULD BE PLEASED TO ANSWER ANY QUESTIONS WHICH YOU OR THE MEMBERS OF THE SUBCOMMITTEE MAY HAVE.

STATEMENT OF

REPRESENTATIVE MICHAEL BOX

ALABAMA GENERAL ASSEMBLY

On Behalf Of

THE NATIONAL CONFERENCE OF STATE LEGISLATURES

On S. 1804

"Drug Offender's Driving Privileges Suspension Act of 1989"

Before the

Subcommittee on Water Resources, Transportation and Infrastructure

United States Senate

November 15, 1989

Mr. Chairman, members of the Subcommittee, I appreciate this opportunity to address you on behalf of the National Conferance of State Legislatures. I am Representative Mike Box, and I will be serving as the Chairman of the NCSL Committee on Law and Justice for the coming year.

The subject of today's hearing, the "Drug Offender's Driving Privileges Suspension Act of 1989," is of considerable interest to the state legislatures. I would like to speak to both the goals of the bill, as well as the approach taken in S. 1804.

As I understand Senator Lautenberg's proposal, states would be required to adopt federal standards for driving license revocation for those convicted of any drug violation. To not do so, a state would face the loss of federal-aid highway funds.

Let me say at the outset, that as a means of intervening in teen-age drug abuse, I believe driving license revocation is an effective tool. Teen-agers place great value on mobility and the threat of losing the privilege to drive will surely provide a deterrent in many cases.

Furthermore, studies conducted for the National Institute on Alcohol Abuse and Alcoholism, show that there was a strong propensity for adolescent drug users to drive while under the influence. Clearly problem or risky behaviors expand into many areas, including driving.

This Congress has indicated a commitment to eliminating the risks posed by substance abuse in commercial transportation, so an interest in addressing the risk in personal transportation is understandable.

As the Senator from New Jersey is well aware, linking the abuse of drugs to the privilege of driving has found support in a growing number of states. The State of Oregon in 1985 became the first to provide for a juvenile convicted of substance abuse to be denied driving privileges. New Jersey, Missouri, Florida and Illinois were soon to follow.

During the 1989 legislative year, some twenty state legislatures had under consideration bills to tie drug convictions to driving license privileges. States are also considering the driving license as an inducement to stay in school, with West Virginia denying licenses to high school dropouts.

I want to emphasize the state legislative activity in this regard to make the point that a federal mandate is unnecessary. I do not think that the states are any less committed to the war on drugs than is the federal government. As a matter of record, states spend substantially more money in areas of criminal justice and corrections than that allowed under the federal budget. And in this area we are already taking steps similar to those that would be required under the provisions of S. 1804.

Legislation I introduced in the Alabama House this year would allow our Department of Public Safety to revoke driving licenses for anyone with a controlled substance conviction. Although I had originally drafted my bill to address the teen-age population, upon reflection I decided that it was a good idea for all age groups.

My bill would allow the Department to revoke the license for 90 days for the first conviction. If there was a subsequent conviction in a five-year period, the license would be revoked for one year and for three years if an additional conviction occurred. We would give the Department the discretion to issue waivers for work and school. I understand that Senator Lautenberg's intent is to give the states flexibility to issue waivers for drug rehabilitation, which is also an important consideration.

Other state approaches vary in the nature of the offense that triggers the license revocation; the duration of the revocation; the age groups affected; and the waivers allowed. Variations, such as these, are not easily accommodated in a national program. States are the appropriate licensing authorities and state qualification determinations should prevail.

I would like to remind the Subcommittee that this proposal is one that has already been rejected by the U.S. House of Representatives and by the Administration as part of its National Drug Control Strategy. In the case of the vote taken by the House last year, Members overwhelmingly opted for an incentive grant approach and a new Section 410 program providing for random drug testing of driving license applicants, in lieu of federally-mandated state license revocation procedures.

During the introduction of S. 1804, Senator Lautenberg lamented "tight budgetary constraints" as precluding a federal incentive grant program at adequate funding levels. I can appreciate that concern. Recently, however, Congress saw fit to effect across-the-board spending reductions in the U.S. Department of Transportation Appropriations bill in order to fund other components of the war on drugs.

I find it somewhat ironic that money for transportation programs can be used to finance drug intervention efforts unrelated to transportation safety, but no funding is available for an effort related to transportation safety. I strongly urge members of the Subcommittee to reconsider the sanction approach of this bill and to actively explore the availability of funds for an incentive grant program.

I would like to spend a few minutes now discussing some of the concerns that state and federal law-makers should address in developing this approach to drug abuse intervention.

The first, and foremost, legal consideration should be the Constitutional standing of the driving license. The U.S. Supreme Court has classified the driving license as an "important interest" protected as such by the Due Process Clause. It therefore cannot be revoked or suspended without a hearing. This poses a certain dilemma for those choosing to utilize an administrative procedure for automatic revocation.

The second legal consideration is that of a punishment not necessarily related to the crime. Since the proposal before us, as well as several state laws, provide for any drug conviction to be grounds for license revocation, we eventually may face legal challenges.

In the recent Illinois Supreme Court ruling in People v. Lindner, the court struck down an Illinois law revoking driving licenses of certain sex offenders. The court held that the license could not be revoked as punishment for a crime that was unrelated to driving a motor vehicle.

Passing this type of law at the federal level invites a constitutional challenge like that which struck down the Illinois law. Although not without its risks, it would be much better to allow and encourage states to tailor license revocation laws in ways that would pass Constitutional scrutiny.

There are compelling reasons for states to vary their approaches to license issuance and revocation. Driving needs vary from state to state, as do social and economic goals. An example of the ineffectiveness of license revocation would be to suspend a driving license for a drug dealer in an inner city, clearly not a deterrent for this individual.

While I can appreciate the interest of Congress in eradicating drug abuse, I cannot appreciate the interest of Congress in usurping the state's licensing authority and imposing yet another federal-aid highway fund sanction. The list of sanctions keeps getting longer and longer, and I believe it is now possible for a recalcitrant state to loose 110 percent of its federal-aid highway monies.

Beyond the legal considerations, I would encourage this Subcommittee to fully explore the practical considerations as well. I do so in recognition of the states' need to examine these issues as well.

Should driving license revocation for controlled substances convictions be limited to a certain age group? Should license revocation for an action not necessarily involving a motor vehicle be limited to abuse of illegal substances only and not alcohol?

How far should we go in restricting the punitive options available to the judiciary? How is the offense of driving when a license has been revoked for substance abuse convictions to be addressed?

Is drug rehabilitation in lieu of license revocation a more permanent remedy to problem behavior?

Is there a more effective role for the automobile insurance industry to play in making policy issuance and cost decisions based on substance abuse?

These are some of the questions that we, at the State level, have already begun to examine. They will not be answered by a sweeping federal mandate. These and other questions must be resolved in each state as legislators attempt to find the best approach to eradicating the drug problem, while preserving individual privileges.

I would ask that this Subcommittee proceed cautiously into yet another area of federal preemption. If the thrust of S. 1804 is truly a good idea, and I am confident it is, it will catch on in the states...but in a deliberative and distinct manner.

I thank you for your time and attention. I will be happy to answer any questions at this point.

1989 STATE LEGISLATION REVOKING/ SUSPENDING DRIVER'S LICENSES FOR ALCOHOL OR CONTROLLED SUBSTANCE OFFENSES

STATE	BILLS	ENACTED?	SUMMARY
AR	SB 64	NO	Authorizes the Department of Finance and Administration to suspend the motor vehicle operator's license until the age of 18 when any person under 18 is found guilty or pleads guilty or nolo contendere under the Uniform Controlled Substances Act.
	SB 101	NO	Provides for the suspension of driver's license of any minor who commits a criminal offense involving illegal possession or use of alcohol or controllec substances; provides that a court may not withdraw order after 90 days following issuance if it is first order issued to a minor; 1 year for a second order; provides that the Department of Finarce and Administration will suspend license for 1 year or until 17, whichever is longer; second offense 1 year or 18, whichever is longer; reinstates license by court order.
CO	HB 1166	YES	Requires the Department of Revenue to revoke the license of any driver upon receiving a record showing that the driver has been convicted of an offerse relating to unlawful use, distribution, manufacturing, dispensing, sale, or possession of a controlled substance, or an offense relating to marihuana.
CT	HB 6247	NO	Provides for the revocation of, or ineligibility for, a motor vehicle operator's license of persons convicted of the sale or possesion of narcotics.
DE	SB 136	YES	Prohibits the Motor Vehicle Division from issuing a driver's license to any person under age 21 who is adjudicated delinquent or is convicted of drug offenses or driving under the influence of alcohol or drugs. The prohibition would las for 2 years or until age 18, whichever was longer. The effect would be to deny a license to a convicted 15 year old until he or she was 17, a convicted 16 year old until age 18, and a convicted 17 year old until age 19.
IL	HB 749	YES	Provides that the clek of the circuit court shall report to the Secretary of State the disposition of cases in which a minor is determined to have committed any of several offenses relating to alcoholic beverages and controlled substances....Secretary of State shall suspend the driving privileges of the minor for one year or until the minor turns 17, whichever period is longer; upon a second violation, suspension shall be for 2 years or until the minor turns 21, whichever is longer.
IN	SB 338	NO	Provides that if a child withdraws from school before that child graduates, receives a high school equivalency certificate, or reaches 18 years of age, or has been suspended, expelled, or excluded from school for using drugs or alcohol, the child's driving privileges shall be suspended.

LA	HB 850	YES	Provides that persons who are under 19 years of age or older who are convicted of offenses involving controlled dangerous substances shall have their driver's license suspended for one year.
LA	SB 708	YES	Provides that any person convicted of any crime, offense, violation or infraction involving possession, use or abuse of alcohol, or the manufacture, distribution, use or administration of controlled substances or is adjudicated a delinquent for the commissionof such an offense shall be denied driving privileges...
MA	HB 1241	NO	Provides for the suspension of a motor vehicle license of persons convicted of the violation certain laws relative to controlled substances.
	SB 1229	YES	Provides for suspension of a license to operate a motor vehicle upon conviction of a violation of the controlled substance act.
MD	SB 26	NO	Requires the Motor Vehicle Administration to suspend the license of a person who is convicted of specified violations relating to controlled dangerous substances. Sets the length of suspension at one year or, if the subject of the suspension is under age 17, until the 18th birthday. Provides for a special commencement date of suspension for persons who do not hold a driver's license at the date of conviction. Requires the clerk off a court to notify the Administration of such convictions.
	SB 283	NO	Requires the MVA to suspend the driver's license of a person under the age of 21 if the person is convicted of possessing, distributing, using or other prohibited activities involving controlled dangerous substances or a combination of alcohol and controlled dangerous substances while operating a motor vehicle; requires clerks of court to notify the MVA of convictions that are subject to the Act.
MO	HB 436	NO	Relates to revocation of drivers' licenses.
MS	HB 691	NO	Provides that persons convicted under the uniform controlled substances law shall have their drivers license suspended.
	SB 2103	NO	Provides for suspension of the driving privileges of persons convicted of drug offenses.
	SB 2263	NO	Requires the court in which a person is convicted of a violation of the Uniform Controlled Substance Law to send an order to the Department of Public Safety within 10 days after such conviction suspending the driving privileges of such person until such person has successfully completed his sentence. Requires the Department of Public Safety to suspend such person's driving privileges without hearing upon receipt of such order.
ND	HB 1313	NO	Relates to operators' licenses and the denial of driving privileges to minors who commit offenses involving the possession, use or abuse of alcohol or controlled substances and cancellation or adjustment of automobile insurance policies.

NH	HB 168	NO	Relates to driver's license revocation or denial for involvement with drugs and alcohol.
NV	AB 129	YES	Allows suspension of driver's license of person convicted of certain offenses relating to controlled substances and dangerous drugs.
NY	AB 451	NO	Provides for mandatory revocation of a drivers license upon conviction of sale of a controlled substance in the first, second, third, or fourth degree where an automobile was used in the crime.
OK	HB 1100	NO	Deletes the age limitation relating to revocation of driving privileges due to use or abuse of alcohol or controlled substances.
TN	HB 977	YES	Authorizes seizure of driver's license and license plates in certain circumstances; requires commissioner of safety to forward certain fees to local law enforcement agencies for certain purposes.
VA	HB 1886	NO	Refers to juvenile DUI. Mandates denial of driver's license for any juvenile found to be in the need of services or delinquent for (1) DUI violation; (2)refusal to take blood or breath test; (3)unlawful purchase orpossession of alcohol; (4)attempted possession of alcohol or abetting another in such a violation; or (5) a violation of designated provisions relating to drugs and drug paraphernalia; court to hold license during period of suspension report to DMV; provided for early withdrawl of license suspension.
	SB 725	NO	Relates to driving privileges; authorizes the court to deny driving privileges to any juverile who is found in need of services or delinquent for unlawful abuse of alcohol or illegal drugs for one year or until juvenile reaches the age of 17, whichever is longer, for a first offense; one yearor until juvenile reaches 18, whichever is longer, for a second or subsequent offense; court directed to consider referral to ASAP program and to confiscate and hold juvenile's operator's license during period.
WA	HB 1145	NO	Revokes drivers' licenses for drug violations.
	HB 1332	NO	Prohibits juveniles from petitioning for reinstatement of driving privileges for certain periods of time after first or subsequent offenses relating to drug or alcohol violations.
	HB 1333	NO	Provides for revocation of driver's license of juveniles convicted of alcohol and drug violations. Enhances penalties for subsequent violations.
	HB 1793	YES	Creates the Omnibus Alcohol and Controlled Substance Act of 1989.... Provides for revocation of juvenile driver license, and other related provisions.
WY	HB 159	NO	Suspends for one year the driving privileges of any person under 21 for crimes or delinquent acts involving alcohol or controlled substances as defined and specified.

DRAFT 8/24/89 (Info. from State Net)

PRIOR STATE LEGISLATION REVOKING/ SUSPENDING DRIVER'S LICENSES FOR CONTROLLED SUBSTANCE OFFENSES

STATE	CHAPT.	YEAR	SUMMARY
FL	87-243	1987	The act provices for up to a 2-year discretionary revocation or suspension of a person's driver license or up to a 2-year delay in a person's eligibility for a driver license, if the person is convicted of a drug offense involving a Schedule I or II controlled substance.
IL	85-1259	1988	Allows the Secretary of State to suspend or revoke the driver's license of a person who has, as a driver, while operating a motor vehicle, been convicted of the illegal possession of more than 5 grams of any controlled substance prohibited under the Controlled Substances Act or more than 30 grams of cannabis prohibited under the provisions of the Cannabis Control Act. Driving privileges shall be suspended for 1 year for the first offense, and for 5 years for a second or subsequent offense taking place within 5 years of the previous conviction.
MO	577.500	1987	Persons uncer 21 years of age will have their driving privileges revoked for a period of 1 year, commencing on their sixteenth birthday...If it has been determined that they have commited...any offense involving the possession or use of a controlled substance as defined in Ch. 195 RS Mo, in violation of the laws of this state.
MO	577.505	1987	Persons over 21 years of age will have their driving privileges revoked for a period of 1 year...If it has been determined that they have violated any state, county, or municipal law involving the possession or use of a controlled substance as defined in Ch. 195 RS Mo, while operating a motor vehicle.
NJ	106	1987	Every person convicted of or adjudicated delinquent for a violation of...any drug offense defined in this chapter... shall forfeit his right to operate a motor vehicle for a period not less than 6 months or more than 2 years...If the person is less than 17 year of age, the period of the suspension of driving privileges shall not commence to run until the defendant reaches the age of 17.
OR	809.260	1985	Whenever a person who is 17 years of age or younger, but not younger than 13, is convicted of any offense involving the possession, use or abuse of alcohol or controlled substances, the court shall prepare an order of denial of driving privileges for the person so convicted...

DRAFT 11/8/89

INVITED STATEMENT IN SUPPORT

S. 1804, SENATOR FRANK LAUTENBERG

Senate Committee on Environment and Public Works

Subcommittee on Water Resources, Transportation and Infrastructure

CARLA LOWE

NOVEMBER 15, 1989

RM. 406 DIRKSEN SENATE OFFICE BUILDING

November 15, 1989

Mr. Chairman and Members of the Subcommittee on Water Resources, Transportation and Infrastructure.

It's my privilege to be here today sharing my thoughts in support of suspending or delaying the driving privilege as a significant consequence--thus a meaningful deterrent--to the unlawful use of alcohol and other drugs. I speak as a mother of five, former high school teacher, and volunteer anti-drug activist for the past 13 years. In that capacity I've travelled over 350,000 miles speaking, teaching, and mobilizing communities to action in 35 states and 11 foreign countries. I have also sponsored four anti-drug laws in California, one being the "USE/LOSE" law to which I will refer in this statement.

Various aspects of the issue of unlawful use of alcohol and other drugs is front page news in virtually every country of the world, but in no other place is it receiving the attention that it is in America. Commendable efforts have been made by Congress and state legislatures to address both the supply and demand side of the issue. It is my opinion that if we are really serious about winning the "War on Drugs", we must do three things:

1) Commit to the Fundamental Principle of NO UNLAWFUL USE OF ALCOHOL AND OTHER DRUGS in all supply and demand reduction programs through education, prevention, intervention, treatment, enforcement, and interdiction, nationally and internationally.

2) Do everything possible to prevent our young people from using tobacco and alcohol until they are of legal age, and to prevent them from using marijuana and other illicit drugs, ever.

3) Provide meaningful rewards for law abiding behavior and significant consequences for undesirable behavior, that is, the unlawful use of alcohol and other drugs.

It is to this third point that I will address my remaining comments.

Driving is a privilege, not a right. Watson v. Division of Motor Vehicles, (1931) 212 Cal. 279, 283, and the basis for regulating persons in connection with operation of motor vehicles is public safety. While an automobile is not, in and of itself, a dangerous machine, it may become such in the hands of a careless person. A person of any age under the influence of a mind-altering drug becomes a careless driver because of the driver-impairing effects on coordination, attention, reaction time, tracking skills, etc. The impairing effects of marijuana

are known to last up to three hours after the "high," thus putting drivers back on the road in an impaired condition.

Suspending or delaying the driving privilege for unlawful use of alcohol and other drugs is the most simple, cost effective, and result-effective way to change this undesirable behavior because losing the privilege to drive provides a significant consequence for those who have the means to drive as it impacts their independence, mobility, and potential financial reward. For others who don't own a car, the license is still important, if not essential as it is a bonafide, personal identification.

I first thought of this simple, common sense approach to changing undesirable behavior when it became apparent that our son, then a high school freshman, was drinking. The Lowe Family Rule was laid down: Any subjective indication of drinking determined by mom and dad would result in the family station wagon being off limits as well as that person's driver's license being with held for six months. Bill challenged the Family Rule, and lost.

May I add here that I was very naive 12 years ago and didn't know that the other obstinate and often seemingly dazed--but nice and quiet--students in my high school classes were also pot smokers. I didn't know then that the subtle changes in their attitude, behavior, and lack of motivation were the classic symptoms of a marijuana user. Had I known, of course any use of illegal drugs would have been added to the Family Rule.

At a national conference in 1981, I suggested that the best way to deter unlawful use of alcohol and other drugs by our young people would be to pass laws in all 50 states mandating a one year suspension or delay of the driving privilege for any alcohol or drug-related conviction. I suggested that the law would empower youths to say "No" because the excuse "I'd Rather Drive" is a believable, peer acceptable excuse for both the 14 year old acne-covered teenage girl and for the 18 year old macho jock.

In 1987, after seeing two other anti-drug laws passed, I sponsored what I choose to call California's "USE/LOSE" law which was carried by Senator Art Torres and later, Senator William Campbell. The bill, SB 1657, was originally introduced by Senator Torres and was effectively killed as a two year bill by lack of support from the Assembly Public Safety Committee, known as the graveyard committee for tough law and order measures.

Because I had been able to build a broad, non-partisan coalition of support for the issue from key elected officials, law enforcement, the educational community, PTA, local governing boards and anti-drug groups, and because the only opposition to the bill was from the ACLU and The California Trial Lawyers, and

because I was confident that I could get the votes on the floor, if I could get the bill out of committee, I decided to try the unpopular, but legal "end run."

After blatant maneuvers by the leadership of the Assembly to stop this effort, we were successful in amending the "USE/LOSE" language of SB 1657 into SB 1300, a drunk-driving bill carried by Senator Campbell in the 11th hour of the 1987-88 legislative session.

The "USE/LOSE" law, Chapter 1254, went into effect January 2, 1989. There has not been a court challenge to date. The provisions require a mandatory one-year suspension of driving privilege for those 16-2_ convicted of any alcohol or other drug-related offense--on or off the highway--and a mandatory one-year delay in obtaining the license for those unlicensed drivers 13 and over, convicted of the same offenses. After the suspension has been imposed, the petitioner may appeal for a restricted license if he or she can show a critical need to drive for an economic, educational, or medical reason.

While there was very little debate in committee hearings, the opposition did argue the nexus issue--that there is no direct relationship between driving and drinking a can of beer under a tree. They also argued the Equal Protection Clause issue--that the state would be dealing with 13-21 year olds differently than it deals with those over 21.

Our response to the nexus issue is that the privilege to drive can be regulated in the interest of public safety because people who break the law are not showing the requisite maturity to drive safely, and that current law does not stipulate that purchase, possession, or use of alcohol and other illegal drugs by those under 21 is just unlawful if in a driving-related circumstance.

To the Equal Protection Clause question, our response was that a court would probably use the rational relationship standard as opposed to the strict scrutiny standard as the legislature has a legitimate objective for distinguishing age difference of those 13-21 and older irrespective of experience, ability to drive, or financial responsibility.

Now that the "USE/LOSE" law has been in effect almost a year, we've had time to evaluate its effectiveness and review problems that need to be addressed in clean up legislation next year. Interestingly, the effectiveness of the law is directly related to the primary problem we're seeing with the law, that is that many youths in the 13-21 age group are not aware of the law.

A recent state wide campaign called "I'd Rather Drive", that I suggested as a means to inform the public, is sponsored by the Office of the Attorney General, the Office of Traffic Safety, and the State Department of Education. A 3-minute video with a clever rap-type presentation and posters telling about the "USE/LOSE" law has been sent to each junior high and school district in California. A 30, 20, and 10 second Public Service Announcement of the same video material has been sent to major radio and television networks. (I have a copy of the video with me if you are interested in seeing it.)

I have written an educational pamphlet for use by students and parents telling of the provisions of the law, outlining the driver-impairing effects of alcohol and marijuana, the two most widely used illicit drugs by those under 21, and suggestions of where to go for help, county by county, that I hope to see funded and distributed through schools as phase two of the "I'd Rather Drive" campaign.

Early data shows that the "USE/LOSE" law is most effective in cities and counties where there is a commitment from law enforcement, schools, media, and the judicial system to clearly communicate to the public the provisions of the law and to enforce it consistently. In my home town of Sacramento, California, there has been this commitment, and the new law is making a difference. Students have called for information on the law for term papers, school officials report that it appears there are fewer alcohol and other drug related problems on the campus and parents have called my home to thank me for the work I did to see the law passed as their teenager had had his/her license suspended and that "...this is the first time any penalty has made an impact on him/her...it puts the sting where it hurts."

Other concerns regarding SB 1300 that have brought to the attention of Senator Campbell are that certain new youth-drug/alcohol-related statutes are not covered by SB 1300, and that some judges who consider the mandatory one-year suspension/delay too harsh, are imposing a lesser sentence or diverting the youth to rehabilitation programs in order to avoid the mandatory suspension or delay of driving privilege. Judges are also giving an automatic restricted license rather than imposing the "harsh" suspended license.

I will sponsor the clean up legislation to address these concerns. I will also sponsor a separate by related piece of logislation to close a loophole in California law which gives youth a glaring "mixed message": Currently a youth under 21 must show a significant Blood Alcohol Level to be convicted of being under the influence of alcohol, yet the state law makes it illegal for anyone under 21 to purchase, possess or use alcohol.

I will work to see legislation introduced and passed which mandates a one-year suspension or delay of driving privilege for any for any use of alcohol. The language in the bill will address family permission for religious sacraments.

In conclusion, I repeat that if we are really serious about winning the "War on Drugs," we must commit to standing firmly on the Fundamental Principle of NO UNLAWFUL USE OF ALCOHOL AND OTHER DRUGS. It's obvious the overall "illicit drug problem" is a multi-faceted issue requiring a multi-phasic plan for solution.

By giving our young people and the adult population the clear "NO UNLAWFUL USE" message, and being willing to back that message with significant consequences, such as a suspension or delay of the driving privilege, we are making one simple, cost-effective, result-effective step in the right direction.

THANK YOU.

NAGHSR

National Association
of Governors' Highway Safety Representatives

Statement of the
National Association of Governors'
Highway Safety Representatives
before the
Subcommittee on Water Resources, Transportation and Infrastructure
of the
Senate Committee on Environment and Public Works

November 15, 1989

I am Paul Jones, Director of the North Carolina Highway Safety Program and Vice Chairman of the National Association of Governors' Highway Safety Representatives (NAGHSR). NAGHSR is a non-profit association which represents the highway safety offices of 49 states, four territories and the District of Columbia. Its members are appointed by the Governor and are responsible for developing and implementing the state's highway safety program.

NAGHSR has reviewed S. 1804, The Drug Offender's Driving Privileges Suspension Act of 1989, and is pleased to offer the following comments. While we are very gratified that Sen. Lautenberg has taken a strong and continued interest in highway safety, we have a number of concerns about the bill he introduced last month.

Sanctions and Incentives

S. 1804 requires that states should be sanctioned if they fail to pass legislation revoking or suspending the driver's license of any lawful driver convicted of a drug offense. NAGHSR and many other state associations strongly oppose the use of sanctions to achieve a program objective. We believe that sanctions are counterproductive and can lead to inadvertent consequences. Withholding a state's highway construction funds, as is proposed under S. 1804, could, in our view, exacerbate highway safety problems by preventing a state from rehabilitating deteriorating pavement, adding capacity, or making other engineering improvements which would improve the safety of the highways.

We also believe that sanctions are not properly targeted to the state or local entity that is responsible for the failure to enact the mandated requirements. Under S. 1804, a state transportation agency would be penalized for a law that its state legislature may have failed to enact, its state or local law enforcement agency may have failed to enforce, or its state licensing agency may have failed to implement. Not only is this

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inequitable, but it is also an ineffective way to influence state behavior.

NAGHSR does not believe that a 10% reduction in highway construction funds is a "modest" reduction, especially in light of other budgetary reductions which have been made in the federal aid highway program over the last few years. Any reduction in the federal-aid highway program will have a very detrimental impact on an infrastructure that is already underfunded and deteriorating.

Furthermore, we suggest that sanctions do not impact states individually but cumulatively. A just-completed study by the Federal Highway Administration found that there were fourteen existing sanctions on federal-aid highway funds for states. (At least two more sanctions have been proposed by Congress this session, in addition to S. 1804.) Eight of those sanctions require the Secretary of Transportation to withhold a portion of a state's apportionments for Interstate, Interstate 4R, primary, urban and secondary programs and one requires the Secretary to withhold all of a state's Interstate apportionment. If a state failed to satisfy the mandated requirements of the laws in which there are sanctions, it could loose all of its Interstate apportionments, 95% of its Interstate 4R apportionments, and 70% of all other apportionments.

In general, NAGHSR strongly supports performance-based incentive grants. Incentives encourage a state to act but do not penalize the state for failure to do so. Performance-based standards or criteria give state highway safety agencies the flexibility to address national highway safety goals in a way best suited to state needs and resources. Performance-based criteria encourage rather than discourage innovative state solutions to highway safety problems. As a result, many states are likely to satisfy the criteria and seek grant eligibility. NAGHSR strongly encourages Senator Lautenberg to take the same incentive-based approach on this license suspension legislation as he did with last year's drunk driving-related license suspension legislation (The Drunk Driving Prevention Act of 1989, 23 U.S.C. 410).

Program Intent and Effectiveness

Although S. 1804 purports to be a highway safety bill, it does not directly address the problem of drugged driving. Rather, the bill attempts to penalize any convicted drug offender by revoking his or her license, regardless of whether that person was driving or not. Hence, there is little connection, in a policy sense, between the problem (drug offense) and the solution (license suspension).

This approach raises three concerns in NAGHSR's view. First, it could set a dangerous precedent which infringes on the privacy

and civil rights of individuals for other problems unrelated to drugged driving. A state could, for example, pass legislation revoking or suspending the license of anyone who has used false identification or who has bounced checks.

Second, a license revocation law would add to the administrative burdens of a state. The more state laws there are requiring license revocation or suspension, the more difficult it is for a state licensing agency to administer those laws, and the more difficult it is for the state to enforce them.

Third, we question whether a broad license suspension law (especially one unrelated to a driving offense) will be an effective deterrent to drugged driving. In New Mexico, for example, experience has shown that many persons whose licenses are "flagged" for DUI convictions simply do not renew their licenses or they obtain new licenses in another state. The effect of that state's license revocation law is to take away the driver's license without affecting the dangerous driving behavior.

We seriously doubt that a license revocation or suspension law will be an effective deterrent to drug dealers or serious drug users -- persons who are likely to continue to drive with or without a legal license -- unless there is very strong enforcement of the law.

NAGHSR believes that there are several other, more effective ways to address the drugged driving problem if that is indeed the intent of S.1804. One drugged driving program already in existence is the Drug Recognition Expert (DRE) program, administered by the National Highway Traffic Safety Administration. The program, which was developed and initially implemented by the Los Angeles Police Department, allows law enforcement officials to determine whether a driver has been using a wide range of legal and illegal drugs. In Los Angeles, the program was shown to be over 90% effective, and it coincidentally caused the level of drunk driving arrests to increase substantially. The DRE program is presently being replicated in eight other states and forty communities nationwide. NHTSA will receive $3 million in FY 90 funds for DRE implementation once the current year funding bill is approved. This will allow the agency to expand the DRE program to fifty major metropolitan areas around the country.

NAGHSR believes that the DRE program is an excellent program and recommends that the Subcommittee closely examine it. One option we urge the Subcommittee to consider is to fund the DRE program at increased levels in order to enable additional program expansion.

A second option is to authorize a federal incentive program to encourage states to pass targeted license suspension or revocation laws for impaired alcohol- and drug-impaired drivers below a certain age. We suggest that the Subcommittee examine state "use it and loose it" license revocation laws for drivers under a certain age who are convicted of alcohol- and drug-related driving offenses. According to the National Commission Against Drunk Driving, twenty-one states have laws which provide stronger license sanctions for DWI offenders under the age of 21. Data from the National Highway Traffic Safety Administration show that 19 states have laws which revoke the licenses of minors with drug convictions. States that do not have these laws could be encouraged to pass them and those that do could be encouraged to amend them to address either type of driving offense.

A third option NAGHSR recommends is to authorize a multi-state license suspension and revocation demonstration program for convicted drug offenders. Since New Jersey and Colorado are the only two states in which a broad drug-related revocation law has been tested, there is relatively little data indicating the effectiveness of such a law. A demonstration program would generate data so that federal and state highway safety agencies could make a more definitive determination of program effectiveness. If the demonstration proves that a revocation law is effective, then we urge Congress to provide states with federal financial incentives for adopting such laws.

Under any of these options, we recommend that there should be specific language (presently absent in S. 1804) allowing states to provide hardship waivers where individual circumstances warrant. A person who is dependent upon his or her automobile for gainful employment and a person who must drive to medical appointments or drug treatment programs should be given a hardship waiver. A revised S.1804 should clearly include language allowing states to provide such waivers under very limited circumstances.

In summary, Mr. Chairman, NAGHSR is strongly opposed to the sanctions provisions of S. 1804, but we believe that the license suspension provisions should be scrutinized further. We urge the Subcommittee to consider several options for addressing the drugged driving problem: increasing the funding level of the Drug Recognition Expert program; establishing an incentive program for states to encourage passage of drugged and drunk driving laws aimed at youth; or authorizing a multi-state demonstration program to determine the effectiveness of the drug-related license suspension program with a followup incentive program.

We appreciate the opportunity to again appear before this subcommittee on an important legislative proposal.

INTERNATIONAL POLICE ASSOCIATION

UNITED STATES SECTION

October 4, 1989

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The Honorable Frank R. Lautenberg
United States Senate
Washington, D.C. 20510

Dear Senator Lautenberg:

The International Police Association strongly supports your legislation to encourage states to suspend the drivers licenses of drug offenders.

We believe your bill will provide an important deterrent that will discourage citizens from engaging in illegal drug activity. The possibility of losing a driver's license will be seen as a real threat by potential drug users,particularly young people, many of whom place a very high value on having a driver's license.

Driver's license suspensions also have the advantage of being a highly cost effective way to deter illegal drug behavior. The administrative costs of suspending a driver's license are relatively low, particularly when contrasted to the enormous costs associated with imprisonment. These lower costs, and the relative ease of suspending a driver's , mean that this sanction would, in fact, be consistently applied. The resulting increase in the certainty of strong punishment upon conviction would enhance the effectiveness of the nation's drug abuse laws.

In addition, suspending the driver's licenses of drug offenders will enhance the safety of our nation's highways. Much attention, quite properly, has been focused on the problem of drunken driving. Yet the problem of drugged driving has not received the national attention it deserves. We believe that suspending licenses of drug users will reduce the number of highway accidents and save lives.

For these reasons, the International Police Association is pleased to endorse your legislation and encourages the Congress to ensure its swift passage. We congratulate you for your leadership in combating the nation's drug problem

Yours in friendship,

Andrew McLachlan
President-U.S. Section IPA

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Joseph M. Winograd
State Farm Insurance

September 28, 1989

Senator Frank R. Lautenberg
717 Hart Senate Office Building
United States Senate
Washington, D.C. 20510

Dear Senator Lautenberg:

The National Drug Information Center of Families in Action is pleased to offer its support for the bill you propose to introduce in the United States Senate providing for the revocation or suspension of the driver's license of convicted drug offenders.

Any effort we can make to reduce the demand for illicit drugs will help in the ongoing war against drugs. This law will be a particularly effective deterrent for our youth. The incentive involving reduction of Federal highway funds to states which do not comply is a proven one. We cannot imagine any lack of support for this bill and hope it is passed quickly and with minimal discussion.

Sincerely,

Sue Rusche
Executive Director

drive

2296 Henderson Mill Road
Suite 204
Atlanta, GA 30345
404-934-6364

New Jersey Federation for Drug Free Communities

Geraldine Silverman, NETWORKER 23 Audubon Court, Short Hills, N.J. 07078 1-201-376-8927

November 10, 1989

Senator Frank Lautenberg
717 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Lautenberg.

The New Jersey Federation for Drug Free Communities welcomes this opportunity to endorse and support your current proposed bill, "Drug Offender's Driving Privileges Suspension Act of 1989." To date the majority of laws emanating from Washington have dealt with the supply side, which is important but in and of itself will not reduce the demand side. We feel your newest proposed law is the first piece of meaningful legislation to address the DEMAND SIDE.

The casual use of illegal, so called "recreational drugs," in our opinion is so pervasive in our country that it literally FEEDS the supply side. When your bill is enacted we conservatively predict at least a20% reduction on the demand side which automatically effects the supply side. Your bill must be viewed as a consequence of an indiviuals unlawful actions, not as punishment. In fact we wholeheartedly agree that suspending a driver's license is far cheaper than the enormous financial cost associated with imprisonment. We are convinced that the casual user, especially young people will think twice, three and ten times before engaging in an illegal act that could cost them their driver's license. Too few of us recognize the bigger cost-----the threat to their health, their future, this nation's future and the undermining of law enforcement efforts nationally and internationally, to cite just a few costs.

On November 3-5, 1989, the New Jersey Federation representatives met with affiliate state organizations in Chicago to formulate advocacy strategies on alcohol/drug issues. The New Jersey Federation distributed and recommended your bill and urged each state organization to write a letter of support. The bill was endorsed by all in attendence, however many states urged that you also include in your bill the UNLAWFUL USE OR POSESSION OF ALCOHOL BY THOSE UNDER 21. We must remember that alcohol, the gateway drug, remains the # 1 illegal drug of choice by those under 21. Most states are not as fortunate as New Jersey to have an underage drinking revocation of a driver's license law. To pass a federal law that ONLY addresses the use, possession or distribution of illegal scheduled drugs, once again sends out a "mixed message" to our children who live in states without an underage unlawful use of alcohol driver's revocation law, "that it is OK to drink, just don't use illegal scheduled drugs.

You have and continue to represent New Jersey with distinction, but more importantly your legislative efforts on behalf of our nations children and their future have truly made a difference. We are extremely proud of you.

Sincerely,

Geraldine Silverman per Linda Ledger
Geraldine Silverman, Networker
Linda Ledger, President
cc All 50 States

SAFE HOMES SAFE FROM DRUGS SAFE FROM ALCOHOL SAFE FOR TEENAGE PARTIES

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BRUCE KING
CO SENATOR FRANK A LAUTENBERG
HART SENATE OFFICE BLDG ROOM 717
WASHINGTON DC 20510

WE SUPPORT EFFORTS THAT WILL FORCE STATES TO ACT RESPONSIBLY WITH REGARD TO REMOVING FROM HIGHWAYS, THOSE WHO USE AND ABUSE DRUGS. WE LOOK FORWARD TO WORKING WITH YOU ON THIS IMPORTANT LEGISLATION.
I REMAIN SINCERELY,
PHYLLIS SCHEPS
NEW JERSEY PTA SAFETY CHAIRMAN

17:26 EST

MGMCOMP

II

101ST CONGRESS
1ST SESSION

S. 1804

To amend title 23, United States Code, to reduce the amount of Federal highway funds allocated to any State that does not provide for the revocation or suspension of the driver's license of any individual convicted of a drug offense.

IN THE SENATE OF THE UNITED STATES

OCTOBER 26 (legislative day, SEPTEMBER 18), 1989

Mr. LAUTENBERG (for himself, Mr. WARNER, and Mr. STEVENS) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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A BILL

To amend title 23, United States Code, to reduce the amount of Federal highway funds allocated to any State that does not provide for the revocation or suspension of the driver's license of any individual convicted of a drug offense.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Drug Offender's Driving Privileges Suspension Act of 1989".

SEC. 2. REVOCATION OR SUSPENSION OF DRIVER'S LICENSES.

(a) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 159. Revocation or suspension of the driver's license of individuals convicted of drug offenses

"(a)(1) The Secretary shall withhold 5 percent of the amount required to be apportioned to any State under each of paragraphs (1), (2), (5), and (6) of section 104(b) on October 1, 1991, if the State does not meet the requirements of paragraph (3) on such date.

"(2) The Secretary shall withhold 10 percent of the amount required to be apportioned to any State under each of paragraphs (1), (2), (5), and (6) of section 104(b) on the first day of each fiscal year beginning after September 30, 1992, if the State does not meet the requirements of paragraph (3) on the first day of such fiscal year.

"(3) A State meets the requirements of this paragraph if the State has enacted and is enforcing a law that requires in all circumstances, or requires in the absence of compelling circumstances warranting an exception—

"(A) the revocation, or suspension for at least 6 months, of the driver's license of any individual who is convicted, after the enactment of such law, of—

"(i) any violation of the Controlled Substance Act, or

"(ii) any drug offense, and

"(B) a delay in the issuance or reinstatement of a driver's license to such an individual for at least 6 months after the individual applies for the issuance or reinstatement of a driver's license if the individual does not have a driver's license, or the driver's license of the individual is suspended, at the time the individual is so convicted.

"(b)(1)(A) Any funds withheld under subsection (a) from apportionment to any State on or before September 30, 1993, shall remain available for apportionment to such State as follows:

"(i) If such funds would have been apportioned under section 104(b)(5)(A) but for this section, such funds shall remain available until the end of the fiscal year for which such funds are authorized to be appropriated.

"(ii) If such funds would have been apportioned under section 104(b)(5)(B) but for this section, such funds shall remain available until the end of the second fiscal year following the fiscal year for which such funds are authorized to be appropriated.

"(iii) If such funds would have been apportioned under paragraph (1), (2), or (6) of section 104(b) but for this section, such funds shall remain available until the

end of the third fiscal year following the fiscal year for which such funds are authorized to be appropriated.

"(B) No funds withheld under this section from apportionment to any State after September 30, 1993, shall be available for apportionment to such State.

"(2) If, before the last day of the period for which funds withheld under subsection (a) from apportionment are to remain available for apportionment to a State under paragraph (1), the State meets the requirements of subsection (a)(3), the Secretary shall, on the first day on which the State meets the requirements of subsection (a)(3), apportion to the State the funds withheld under subsection (a) that remain available for apportionment to the State.

"(3) Any funds apportioned pursuant to paragraph (2) shall remain available for expenditure as follows:

"(A) Funds originally apportioned under section 104(b)(5)(A) shall remain available until the end of the fiscal year succeeding the fiscal year in which such funds are apportioned under paragraph (2).

"(B) Funds originally apportioned under paragraph (1), (2), (5)(B), or (6) of section 104(b) shall remain available until the end of the third fiscal year succeeding the fiscal year in which such funds are so apportioned.

Sums not obligated at the end of such period shall lapse or, in the case of funds apportioned under section 104(b)(5), shall lapse and be made available by the Secretary for projects in accordance with section 118(b).

"(4) If, at the end of the period for which funds withheld under subsection (a) from apportionment are available for apportionment to a State under paragraph (1), the State does not meet the requirements of subsection (a)(3), such funds shall lapse or, in the case of funds withheld from apportionment under section 104(b)(5), such funds shall lapse and be made available by the Secretary for projects in accordance with section 118(b).

"(c) For purposes of this section—

"(1) The term 'driver's license' means a license issued by a State to any individual that authorizes the individual to operate a motor vehicle on highways.

"(2) The term 'drug offense' means any criminal offense which proscribes the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance the possession of which is prohibited under the Controlled Substances Act.

"(3) The term 'convicted' includes adjudicated under juvenile proceedings.".

(b) The table of contents for chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new item:

"159. Revocation or suspension of the driver's license of individuals convicted of drug offenses.".

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Congressional Research Service
The Library of Congress

Washington, D.C. 20540

November 15, 1989

TO : The Honorable Frank R. Lautenberg
Attention: Bruce King

FROM : American Law Division

SUBJECT : Legal Analysis of S. 1804, 101st Congress: Withholding Federal Highway Funds from States Who Do Not Enact Laws To Suspend Driver's Licenses for Convicted Drug Offenders

This memorandum is furnished in response to your request concerning a legal analysis of S. 1804, 101st Congress. Specifically, this memorandum sets forth the relevant provisions of the bill and discusses legal and constitutional issues which are raised by the provisions. It concludes, for the reasons set forth below, that there would most likely be no constitutional difficulties with enactment of bill as introduced under the spending power. Additionally, the memorandum raises issues which are relevant to the states' enactment of laws which revoke or suspend the driver's licenses of drug offenders. However, without the opportunity to examine the provisions of a challenged state law and the nature of that challenge, this memorandum can only raise pertinent issues which may be raised should such a challenge occur.

S. 1804, 101st Congress.

Senator Lautenberg, for himself and Senators Warner and Stevens, introduced S. 1804, the "Drug Offender's Driving Privileges Suspension Act of 1989", on October 26, 1989. This bill amends title 23, U.S. Code, to reduce the amount of federal highway funds allocated to any state that does not provide for the revocation or suspension of the driver's license of any individual convicted of any violation of the Controlled Substances Act or a drug offense[1]. Section 2 of the bill states that the Secretary of Transportation shall withhold 5% of the amount required to be apportioned to any state

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[1] "Drug offense" is defined in the bill to mean any criminal offense which proscribes the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance the possession of which is prohibited under the Controlled Substances Act. The term "convicted" includes adjudicated under juvenile proceedings.

under 23 U.S.C. §104(b)(1), (2), (5), and (6) if the state does not meet the bill's stated requirements on October 1, 1991. A state can meet the requirements of the bill if it has enacted and is enforcing a law that requires in all circumstances, or requires in the absence of compelling circumstances warranting an exception --

> (A) the revocation, or suspension for at least 6 months, of the driver's license of any individual who is convicted, after the enactment of such law, of -
>
> (i) any violation of the Controlled Substances Act, or
>
> (ii) any drug offense, and
>
> (B) a delay in the issuance or reinstatement of a driver's license to such an individual for at least 6 months after the individual applies for the issuance or reinstatement of a driver's license if the individual does not have a driver's license, or the driver's license ... is suspended, at the time the individual is so convicted.

Moreover, this section authorizes the Secretary to withhold 10% of the amount required to be apportioned to any state pursuant to §104(b)(1), (2), (5) and (6) on the first day of each fiscal year beginning after September 30, 1992, if the state does not meet the above requirements on the first day of such fiscal year.

The funds withheld from the states on or before September 30, 1993 will remain available for apportionment to the state in the manner prescribed in the bill. Under this section, no funds withheld from apportionment after September 30, 1993 will be available to the state. To explain the intent behind the bill, Senator Lautenberg stated in the *Congressional Record*:

> Empty threats of imprisonment will not deter the causal (sic) user. Instead, we need alternative sanctions that are realistic, certain, and cost effective. One such sanction is to take away the driver's license of drug offenders. ... My bill would give States a reasonable period to enact such laws, and would withhold a modest portion of highway funds for those that refuse. The withholding provisions essentially track existing law establishing the national 21-year-old drinking age.[2]

Legal Analysis of the "Drug Offender's Driving Privileges Suspension Act of 1989".

The Constitution empowers Congress to "lay and collect Taxes, Duties, Imposts, and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States." Art. I, §8, cl. 1. Among other

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[2] 135 *Cong. Rec.* S14257-58 (1989).

things, this clause provides Congress with the grant of power to spend for the general national welfare. Incident to the spending power, Congress may attach conditions on the receipt of federal funds in order:

> to further broad policy objectives by conditioning receipt of federal moneys upon compliance by the recipient with federal statutory and administrative directives.[3]

The Supreme Court addressed the imposition of a condition on the receipt of federal funds in *Oklahoma v. Civil Service Commission*, where Congress set conditions upon grants-in-aid over the objection of a State. In this case, the State objected to the enforcement of a provision of the Hatch Act where its right to receive federal highway funds would be diminished if it failed to remove from office a member of the State Highway Commission found to have taken an active part in party politics during the member's term of office. In its opinion, the Court stated:

> While the United States is not concerned with, and has no power to regulate local political activities as such of State officials, **it does have power to fix the terms upon which its money allotments to State shall be disbursed** ... The end sought by Congress through the Hatch Act is better public service by requiring those who administer funds for national needs to abstain from active political partisanship. So even though the action taken by Congress does have effect upon certain activities within the State, it has never been thought that such effect made the federal act invalid.[4] [Emphasis added].

The recent case of *South Dakota v. Dole*[5] illustrates the Court's requirements for a permissible use of the spending power and the placing of conditions on the receipt of federal funds. Here, the state of South Dakota challenged the federal statute which directed the Secretary of Transportation to withhold a percentage of federal highway funds otherwise allocable from States who allow the purchase or public possession of any alcoholic beverage by a person under 21 years of age. 23 U.S.C. §158. The state argued that this statute violated the constitutional limitations on congressional exercise of the spending power and violated the Twenty-first Amendment to the United States Constitution. The Court upheld the statute as a permissible and constitutional use of the spending power.

Although the spending power is considered to be broad, the Court in *South Dakota* explicitly stated that the spending power and the conditional

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[3] *South Dakota v. Dole*, 483 U.S. 203, 206 (1987) (quoting *Fullilove v. Klutznick*, 448 U.S. 448, 474 (1980)).

[4] 330 U.S. 127 (1947).

[5] *South Dakota, supra*, at 205.

grant of federal funds are not without restrictions or limitations and set forth a test for general application.[6] The first limitation is derived from the Constitution's language itself: "the exercise of the spending power must be in pursuit of 'the general welfare'".[7] In determining whether or not an expenditure is intended to serve general public purposes, the Court held that substantial deference should be accorded to the judgment of Congress. Second, the Court has required that if Congress wants to condition the States' receipt of federal funds, it "'must do so unambiguously ..., enabl[ing] the States to exercise their choice knowingly, cognizant of the consequences of their participation'".[8] And third, the Court noted that its cases suggest that conditions on federal grants might be illegitimate if they are unrelated "'to the federal interest in particular national projects or programs.'"[9] In addition, other constitutional provisions may provide an independent bar to the conditional grant of federal funds.

The Supreme Court applied its test in the drinking age case and held 23 U.S.C. §158 is not inconsistent with any of the three restrictions. The Court stated:

> Congress found that the differing drinking ages in the States created particular incentives for young person to combine their desire to drink with their ability to drive, and that this interstate problem required a national solution. The means it chose to address this dangerous situation were reasonably calculated to advance the general welfare.

Second, it held that the conditions upon which States receive funds were clearly stated by Congress and the condition imposed by Congress was directly related to one of the main purposes for which highway funds are expended - safe interstate travel. The Court stated that Congress conditioned the receipt of federal funds in a way reasonably calculated to address this impediment to a purpose for which the funds are expended. Furthermore, the Court found that the Twenty-first Amendment did not constitute an independent constitutional bar to the conditional grant of federal funds. Finally, the Court found no violation of the State's sovereignty and reaffirmed its position that the Federal Government "does have power to fix the terms upon which its money allotments to states shall be disbursed."'[10]

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[6] *Id.*, at 206-207.

[7] *Id.*

[8] *Id.*; (quoting *Pennhurst State School v. Halderman*, 451 U.S. 1, 17, 101 S.Ct. 1531, 1540 (1981).

[9] *Id.*; (quoting *Massachusetts v. United States*, 435 U.S. 444, 461, 98 S.Ct. 1153, 1164 (1978).

[10] *Oklahoma v. Civil Service Commission*, supra, at 143-144.

The test enunciated by the Court in *South Dakota* can be applied to the provisions of S. 1804, 101st Congress, in order to analyze the constitutionality of the condition attached to the receipt of federal funds. First, the spending power, as enumerated in the Constitution, authorizes Congress to spend for the general welfare. It is reasonable to assume that this bill purports to spend and to condition spending so that the general welfare of the United States is served. Senator Lautenberg addressed this issue in his *Congressional Record* remarks:

> We need to discourage people from using drugs - through education and through effective deterrents.... [T]he concept of suspending driver's licenses of drug offenders already has won widespread support. President Bush endorsed the idea in his national drug control strategy. A report by law enforcement groups, ..., also recommended that States enact such laws .... Moreover, a recent Gallup poll found that 78 percent of both adults and teenagers are in favor of taking away the driver's licenses of drug users.[11]

As stated by the Court, substantial deference to Congress' judgment in this realm is appropriate.

Second, the condition which is placed upon the states' receipt of federal highway funds is set forth in the bill in a clear, unambiguous manner. This requirement enables the states "to exercise their choice knowingly, cognizant of the consequences of their participation."[12] S. 1804, 101st Congress, in a similar fashion as was accorded the condition for the minimum drinking age provisions, clearly sets out the 5-10% withholding provisions, all applicable and relevant dates, and prescribes the availability or nonavailability of the withheld funds. It can reasonably be concluded that the language, as introduced, is unambiguous.

Third, it can be argued that the condition placed on the federal funds is legitimate in that it relates to the federal interest in this national project or program. Discouraging drug use, drugged driving and involvement in illegal drug activities are arguments which may be offered to support the relationship between the conditioned funds and a national objective. Certainly, the use of drugs while driving supports a finding that the resulting impairment may cause a risk to motorists. It is reasonable to conclude that such arguments may permit the condition placed on the apportioned funds. Senator Lautenberg included in the *Congressional Record* a letter from the President of the U.S. Section of the International Police Association in which the Association stated it believes that suspending the license of drug users will reduce the number of highway accidents and save lives. Moreover, arguments

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[11] 135 *Cong. Rec.* S14258 (1989).

[12] *South Dakota*, supra, at 207.

introduced during the debate to increase the minimum drinking age could be applicable in this context. It may be concluded that a rational relationship between the conditioning of federal funds and federal interests exists.

As noted, the final examination focuses on whether or not an independent constitutional bar exists to invalidate the exercise of Congress' spending power under S. 1804. A perceived Tenth Amendment limitation on congressional regulation of state affairs can be balanced with the principle that Congress does have the power to fix the terms upon which its money allotments to states shall be disbursed.[13] It can be reasoned that the bill does not violate a State's sovereignty and that federal coercion does not exist. As in the minimum drinking age context, S. 1804 provides for the loss of 5-10% of federal funds, a "modest portion" of highway funds, as Senator Lautenberg noted in his comments. The Court recognized the amount factor as an important issue in the drinking age context and noted:

> Congress has offered relatively mild encouragement to the States to enact higher minimum drinking ages than they would otherwise choose. But the enactment of such laws remains the prerogative of the States not merely in theory but in fact. Even if Congress might lack the power to impose a national minimum drinking age directly, we conclude that encouragement to state action found in §158 [the drinking age provision] is a valid use of the spending power.[14]

Under S. 1804, the amount of the funds which could be withheld if the states choose not to enact such legislation that provides for the suspension or revocation of the driver's licenses of drug offenders could be considered relatively modest and noncoercive, thereby appropriately preserving the state's sovereignty.[15]

Based upon the discussed constitutional provisions and relevant Supreme Court holdings, it can be concluded that the provisions of S. 1804, 101st Congress, present a valid use of the congressional spending power. Furthermore, under the facts at hand, it does not appear that an independent constitutional bar presents an impediment under this bill.

Issues on the State Level.

S. 1804, 101st Congress, contemplates the enactment of state statutes which revoke or suspend the driver's licenses of drug offenders if the state wishes to receive the full amount of apportioned federal highway funds. New

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[13] See footnote 2.

[14] *South Dakota*, supra, at 211-212.

[15] See *Garcia v. San Antonio Metropolitan Transit Authority*, 469 U.S. 528 (1985).

Jersey has enacted a law which sets forth a mandatory forfeiture or postponement of driving privileges for every person convicted of or adjudicated delinquent for a violation of any offense in chapter 36 of title 2C, New Jersey Code. Chapter 36, entitled "Drug Paraphernalia", includes offenses for the use of or possession with the intent to use drugs. Senator Lautenberg noted in his comments that New Jersey last year suspended the licenses of about 9,600 drug offenders.[16]

Relevant legal and constitutional issues may be raised in the context of similar state legislation. The police power of a State embraces regulations designed to promote the public convenience as well as those to promote public safety, health and morals. The state's interest in public safety can be weighed against this individual's interest in possessing a valid driver's license. For instance, the state may argue that its interest in the safety of the roadways outweighs the individual's interest in driving. Moreover, the state, in the exercise of its police powers, may wish to tie the drug offense to the privilege of the driver's license in order to meet the objectives of safety and decreased illegal drug activity. However, the exercise of the police power must bear a real and substantial relation to an end which is public, specifically, the public health, public safety or public morals, or some other phase of the general welfare.[17]

If the offender raises a challenge based upon the Equal Protection Clause of the Fourteenth Amendment alleging discrimination, the court would examine the discretion of the state to pass laws which affect some groups of citizens differently than others. The constitutional problem arises when the classification rests on grounds wholly irrelevant to the achievement of the state's objective. In the present context, it may be offered that the state's objective is safety of the roadways and the suspension or revocation of the drug offender's license is rationally related to this end. Based upon the application of this test, a statutory discrimination will not be set aside if any statement of facts reasonably may be conceived to justify it. *McGowan v. Maryland,* 366 U.S. 420, 425-426 (1961).

Again, the offender may assert a due process "right" to his/her driver's license and protest the suspension or revocation of the same. In this context, the state may argue that its interest in safety outweighs the offender's interest to drive with a valid license. Unless the challenger can demonstrate that the possession of a valid license is a fundamental or constitutionally protected right, the state's interest, if shown to be rationally related to its objectives, may be considered more weighty than the interests of the convicted offender. Such an analysis would support the state's legislation to revoke or suspend the license of a convicted drug offender.

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[16] 135 *Cong. Rec.* S14258 (1989).

[17] *Liggett Co. v. Baldridge,* 278 U.S. 105, 111-112 (1928).

It should be added that each state may choose to enact a law which is similar to or quite different from the New Jersey law. Due to the myriad of possibilities in drafting these provisions, it is impossible to conclude which statutes may weather constitutional challenge without examining the provisions themselves. Additionally, the manner and content of the challenge may prove critical to the determination in a particular case. Nonetheless, the issues raised are relevant when examining the interplay between state regulation and personal interests and the courts' treatment of related challenges.

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